# VIRGINIA DEPARTMENT OF EDUCATION DUE PROCESS HEARING 24-019

**IN RE: XXXX, a minor,**

**By and through XX Parent, Xxxxxxxxxxxxx,**

**Petitioner, FINDINGS OF FACT AND DECISION**

**Date of Decision: 01/01/2024**

 **- Against -**

 **Case No. 24-019**

**XXXXXXXXXXXXXXXXXXXXXXXXX PUBLIC SCHOOLS,**

**Respondent.**

**Tiziana Ventimiglia, Esq.,**

**Hearing Officer**

## INTRODUCTION

 This matter comes before the undersigned Hearing Officer on the Petitioner’s (hereinafter the “Parent”) Notice of Due Process Complaint, filed on October 17, 2023, (hereinafter, “Complaint”). [[1]](#footnote-1) [[2]](#footnote-2) [[3]](#footnote-3) I was appointed on October 23, 2023, to preside over this matter.[[4]](#footnote-4) Respondent (hereinafter the “LEA”) filed a Response to the Complaint on October 27, 2023, along with a Motion to Dismiss.[[5]](#footnote-5) On October 30, 2023, a First Administrative Hearing was held to set the date and location of the hearing.[[6]](#footnote-6) A resolution meeting was held on November 1, 2023; however, the Parties were not able to reach an agreement. A First Prehearing Conference in the matter was scheduled and held on November 2, 2023. The First Prehearing Conference Summary and Order was issued on November 3, 2023.[[7]](#footnote-7) lA Notice of Insufficiency was filed by the LEA on November 1, 2023, and this Hearing Officer issued a Determination on November 3, 2023[[8]](#footnote-8). A Second Prehearing Conference was scheduled for, and held on November 8, 2023. The Second Prehearing Conference Summary and Order was issued on November 9, 2023.[[9]](#footnote-9)

 The four-day hearing was held from November 27, 2023 through November 30, 2023. It was an open hearing at the request of the Parent. The Parent was represented by the Advocate, Kandise N. Lucas, B.A., M.S.Ed., FFT, QMHP, PhD. The LEA was represented by the law firm of Sands Anderson P.C. through Jason Ballum, Esq., LaToya Croxton Esq., and Pamela O’Berry, Esq. At the hearing, only Ms. Croxton and Ms. O’Berry were present. The LEA entered into evidence multiple exhibits. The Parent did not enter any exhibits into evidence; a more detailed list of the exhibits cited herein is attached as Appendix B to this decision.

Prior to the hearing, several motions were filed by both parties, as well as Witness Subpoenas and Subpoena *Duces Tecum*, and they are all made part of the record and listed in Appendix B to this decision. Notable is the Parent’s Request for Accommodations for the Parent and for public observers. The Parent requested transportation from and to Petitioner’s home each day of the hearing, and a Spanish Interpreter and a Sign Language Interpreter for members of the public who were expected to attend the hearing. Each Party submitted a brief in support of their respective positions.[[10]](#footnote-10) [[11]](#footnote-11) As far as the request for transportation, this Hearing Officer found that the Parent did not show that the need for transportation was related to a disability, as required by the regulations and applicable law; by admission of the Parent in the course of the First Prehearing Conference, the request was due to financial hardship given that the Parent does not drive; furthermore, the request was in direct conflict with evidence introduced by the Parent herself in which she requested in a previous IDEA proceeding, as an accommodation, that “all other gatherings, if possible, be held at Xxxxxxxxxxx […]” which was the same location identified for the present matter. As far as the request for a Spanish interpreter and a sign language interpreter, this Hearing Officer denied the request for members of the public because no request had been received by any prospective attendees, and this Hearing Officer found that such individuals require their own independent efforts as deemed necessary per applicable law.[[12]](#footnote-12)

A second notable motion was the Parent’s Motion to allow, as an accommodation, the Student to appear remotely, and to allow the Parent to participate remotely as well due to the Student’s medical needs. In support of the motion, the Parent submitted a letter from the Student’s treating physician dated November 17, 2023, in which it was stated that due to the nature of the Student’s disability, the Parent could not be away from the Student for extended periods of time.[[13]](#footnote-13) The Motion was argued at the beginning of the hearing, and the motion was granted. This Hearing Officer set up a Google Meet for the Student to introduce xxxxself, and the parent was afforded the flexibility to attend the hearing remotely, as needed, depending on the availability of care for the Student. The Parent attended the hearing in person each day, with the brief exception of the Parent being at home to assist the Student in XX introduction in this proceeding via Google Meet.

A third notable motion was the LEA’s Motion, *in limine*, to exclude the Parent’s proposed Exhibits P-13(VDOE Letter of Findings), P-14 (VDOE Letter of Findings), and P-15 (Complaint Appeal Reviewer Letter dated the September 13, 2023).[[14]](#footnote-14) This Hearing Officer granted the LEA’s motion on the basis that these exhibits pertain to decisions made pursuant to a state complaint resolution process, and are also associated with two matters that are actively pending appeal in circuit court.

A fourth notable motion was a Motion by VDOE to Quash Mr. Millward’s Subpoena to testify in this proceeding.[[15]](#footnote-15) This Hearing Officer denied the Motion to Quash Mr. Millward’s subpoena based on the fact that Mr. Millward was identified by the Parent as a fact witness only, who would testify about his direct knowledge, through direct interactions not only with the Parent, but also with school staff and others.

## JURISDICTION

 The due process hearing was held, and a decision in this matter is being rendered, pursuant to the Individuals with Disabilities Education Act (hereinafter, “IDEA”),[[16]](#footnote-16) 20 U.S.C. § 1400 *et seq*., and its implementing regulations, 34 C.F.R. § 300 *et seq*., and the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, 8 VAC § 20-81 *et seq*.

## BACKGROUND

The Student at the center of this due process hearing is a XX year old student who currently is not attending classes at any school, despite being found eligible for special education services under the disability categories of Autism, Other Health Impairment, and Emotional Disability.[[17]](#footnote-17)

## ISSUES AND RELIEF SOUGHT

 **Issues**: The issues pertain and are limited to **school years 2022-2023 and 2023-2024**, and are as follows:

1. Whether the LEA denied the student FAPE when it failed to provide a timely draft of the IEP Prior to IEP Meetings as well as when it denied the Parent meaningful participation in the creation of the draft.

a. Whether the LEA denied the student FAPE when it failed to allow the Parent and the Parent’s representatives (legal and educational) to meaningfully engage in the IEP team and process.

1. Whether the LEA denied the student FAPE when it failed to consider safety concerns and their impact on the child’s education as part of the IEP process.
2. Whether the LEA denied the student FAPE when it failed to consider required related services for the Student based the need for an individualized educational plan and medical directives.
3. Whether the LEA denied the student FAPE when it engaged in harassment of the Student in the educational setting, and further retaliation against the Parent.
4. Whether the LEA denied the student FAPE when it failed to properly monitor progress as well as report and document incidents involving the Student in the educational setting.
5. Whether the LEA denied the student FAPE when it failed to allow the Parent to copy and review all records, including videos and incident reports relating to incidents involving the Student in the educational setting.
6. Whether the LEA denied the student FAPE when it failed to provide service and resource coordination services and to allow the parent to meaningfully participate as an equal IEP Team member.
7. Whether the LEA denied the student FAPE when it failed to ensure that special education instructional staff assigned to student complied with the mandated professional standards as identified by the Virginia Department of Education and the IDEA.
8. Whether the LEA, Virginia Department of Education and the Sands Andersen Law Firm denied the student FAPE when they failed to ensure that all IEP Team participants demonstrated a legitimate educational purpose when serving on the IEP Team.
9. Whether the LEA, Virginia Department of Education and the Sands Andersen Law Firm denied the student FAPE when they failed to prevent acts of intentional and repeated acts of forgery by school division staff and the LEA’s outsourced counsel, the Sands Anderson Law Firm involving The Student’s educational records.
10. Whether the LEA denied the student FAPE when it failed to ensure that the IEP Team complied with the “Meaningful IEP Development” protocols as well as the mandated “Standards-based IEP Development” guidance required under SB 1288.
11. Whether the LEA denied the student FAPE when it failed to ensure that all IEP Team participants understood their respective roles, operated within their scope of licensure, and were certified to serve on the IEP Team as mandated by SB 1288.
12. Whether the LEA denied the student FAPE when it failed to ensure that the Student and the Parent were not subjected to an ongoing hostile environment where hate crimes, based in disability bigotry resulted in a culture within the LEA in which the Conspiracy Against Rights, 18 U.S.C. § 241 statute is violated by school division staff serving on IEP Teams as well as the Sands Andersen law firm, as standard operating procedure.
13. Whether the LEA denied the student FAPE when it failed to protect the Student and Parents from their staff’s repeated criminal acts of forgery, forgery via computer, and uttering as defined by Virginia criminal code, resulting in extensive emotional and physical trauma as well as irreparable harm for the family.

**Relief**: The Complaint identified the following relief sought by the Parent:

1. Immediate assignment of a Board Certified Behavior Analyst (BCBA) or Qualified Mental Health Professionals (QMHP) from one hour prior to the start of the school day to one hour after the school day, (unless the Student is involved in extra-curricular activities that result in an extension of Extended School Day Services), to support the Student’s emotional, trauma, physical, xxxxxxxxxx, academic, and socialization needs.
2. Reimbursement to cover the periods of denial of rights as well as award compensatory services for the past 18 months that The Student was denied FAPE by the LEA, the Virginia Department of Education, and Sands Andersen.
3. Full implementation of students’ IEPs based on the partial consent provided by the Parent.
4. Immediate assignment of an independent special education case manager, that meets and/or exceeds the qualifications of the district’s case managers, and is of the Parents’ choice, that will provide care coordination, oversee the development, implementation, progress monitoring, and evaluation of the Student’s special education services.

The complaint also identified the following two remedies. However, this Hearing Officer does not find that she has the authority to grant the relief sought:

1. Immediate removal of all district administrators, in compliance with OSEP’s Letter to Harrell, who have an illegitimate educational interest for serving on the Student’s IEP Team.
2. Imposition of sanctions and/or revocation of licenses, (via the Virginia Department of Education, Virginia Department of Health Professions, and the Virginia State Bar), of those who participating in denying the Student and the Parent their rights under state and federal law.

## FINDINGS OF FACT

**(By a Preponderance of the Evidence)**

After considering all of the evidence, as well as the argument of Counsel and Advocate, this Hearing Officer’s findings of fact are as follows:

1. At all times concerned in this proceeding, the Student, now a XX year old, has been a resident of Xxxxxxxxxxxxxxxxxxxxxxxxx, Virginia. The Student lives with the Parent and has a younger sibling who attends xx grade at Xxxxxxxxxxxxxxxxxxxx School.[[18]](#footnote-18)
2. The Student is described by the Parent as interesting, enthusiastic, complicated, and unpredictable.[[19]](#footnote-19)
3. The Student has several medical diagnoses: autism, disruptive mood dysregulation disorder, oppositional defiant disorder, anxiety, ADHD, xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, and Scoliosis. [[20]](#footnote-20) [[21]](#footnote-21) [[22]](#footnote-22) [[23]](#footnote-23) [[24]](#footnote-24)
4. xx was found eligible for special education services under the disability categories of Autism, Other Health Impairment, and Emotional Disability.[[25]](#footnote-25)
5. The xxxxxxxxxxxxxxxxxxxxx is a major issue for the Student who “[i]s incapable of cleaning xxxxself. xx requires adult assistance and somebody with some medical knowledge to be able to alert [the Parent] if anything seems off or wrong.”[[26]](#footnote-26)
6. The Student at some point was in residential setting because with autism the Student had behaviors that can be very dangerous at times.[[27]](#footnote-27) Xxx would throw things, scream, or cry. Sometimes it is something very minor that can set xxxx off.[[28]](#footnote-28) As a result, upon request of the Parent, the school division transitioned xxxx into a more restrictive environment.[[29]](#footnote-29) At that time, when the Parent walked into the IEP meeting saying “we gotta talk about placement because they could not keep kicking xxxx out of school, they were ready.”[[30]](#footnote-30)
7. The Student was in ADP (Autism Day program) and IDP (Intensive Day program) in xxxxxx and xxxxx grade. [[31]](#footnote-31)
8. The last agreed upon IEP dates back to October 18, 2021 when the Student was xx years old. At that time, the Student’s projected graduation date was 20xx. As stated in that the 2021 IEP, after high school, the Student would like to attend college and study music. [[32]](#footnote-32)
9. The Parent is very involved in the Student’s education, taking advantage of any available training, attending the State Special Education Advisory Committee (SSEAC) meetings and their training. The Parent has also taken the Meaningful IEP Meeting training several times. The Parent has advocated at the state level, regional and local level, and has collaborated with USDOE at the federal level on some committees.[[33]](#footnote-33)
10. The Parent does not believe the LEA and many of the IEP team members understand the procedural safeguards, nor do they understand parental engagement. She stated:
	1. She has never been made to feel like she is an equal IEP team member;
	2. She has to remind them of sending prior written notices (PWNs);
	3. In the PWN, services are denied, but there is no explanation;
	4. The school division has never gone through the Student’s file to explain the documentation in there;
	5. Anytime she has asked questions to the person who keeps the file, the answer is always “I don’t know anything about that, you will have to ask someone else” or “we are not required”;
	6. As an example, after noticing a report card that stated that the Student was entered in “modified classes”, she asked the case manager at the time, xxxxxxxxxxxx, but she never got an answer as to what that meant;
	7. She has asked questions throughout the years and has been ignored.[[34]](#footnote-34)
11. The Parent feels bullied by Ms. Xxxxxxxx. She felt Ms. Xxxxxxxx was being dismissive toward her; The Parent did not understand why Ms. Xxxxxxxx was even part of the IEP meeting.[[35]](#footnote-35)
12. The Parent testified to one incident when Ms. Xxxxxxxx threatened to have an officer remove her from the building. An administrator, Xxxxxxxxxxxxxxxx, came in and asked why Ms. Xxxxxxxx was even in the meeting, and stated that “people like her, central office, create a hostile environment in EIP meetings”.[[36]](#footnote-36)
13. According to the Parent, there are two main reasons why this Request for Due Process was filed: 1) The Parent wants the Student to attend Xxxxxxxxxxxxxxxxxxxx School as an xxxxxxxx grader because she believes that Xxxxxxxxxxxxxxx (the private day school) under-educating the Student, and, 2) the Parent wants a health plan to address the xxxxxxxxxxxxxxxxxxxxx. “The student needs an aide.”[[37]](#footnote-37)
14. The Parent contacted Dr. Xxxxxx about her concerns with Xxxxxxxxxxxxxxx and Dr. Xxxxxx stipulated “we’ll allow [the Student] to repeat xxxxxxxx grade but only in the public school.”[[38]](#footnote-38)
15. The Parent believes that she had reached an agreement with Dr. Xxxxxx, but that the agreement fell through because the “LEA had new staff come in afterwards, who just were not accepting what had already been documented and talked about in prior IEP meetings.”[[39]](#footnote-39)
16. In advocating for the Student the Parent approached members of the School Board, Xxxxxxxxxxxxx and Xxxxxxxxxxx. The Parent spoke with Xxxxxxxxxxx in November 2021, and then with Xxxxxxxxxxxxx the following April or March 2022 at a budget meeting, and then Xxxxxxxxxx.[[40]](#footnote-40) The Parent also had a virtual meeting with Xxxxxxxxxxxxx and another board member, Xxxxxxxxxxxxxx in January 2022 regarding the need of a medical aide.[[41]](#footnote-41) They said they would talk to people but made no commitments.[[42]](#footnote-42)
17. The Parent believes that the LEA wants to “just deny everything the kid needs.” [[43]](#footnote-43)
18. The Parent has threatened IEP Team members. During the September 28, 2023 IEP meeting the Parent stated that she is good at writing state complaints and that their licenses and LEA funding are on the line.[[44]](#footnote-44)
19. The Parent has a good rapport with the Mr. Xxxxxxxxx, that Principal at Xxxxxxxxxxxxxxxxxxxx School. He described Parent as a strong advocate for her children; she is not neglectful regarding their education.[[45]](#footnote-45) He has never had to hang up on the Parent, never called the police on her, have never excluded her from any meetings.[[46]](#footnote-46)
20. Xxxxxxxxxxxxxxxxx is the Student’s Xxxxxxxxxxxxxx Community Services Board (CSB) services coordinator. Mr. Xxxxxxxx has 23 years of experience as an educator. He links clients with the services that are able to be funded through their Medicaid waiver. [[47]](#footnote-47)
21. Mr. Xxxxxxxx is a credible witness.
22. He became the Student’s case manager in May 2023. He attended IEP meetings at the Parent’s request. [[48]](#footnote-48) He is very involved as the Student’s case manager, having missed only one school-related meeting in June 2023.[[49]](#footnote-49) He attended a total of five IEP meetings.
23. The student is considered ECM (enhanced case management) case management level client. This means that Mr. Xxxxxxxx sees xxxx every month. Sometimes the Student is chatty, some other times he does not want to talk to Mr. Xxxxxxxx. [[50]](#footnote-50)
24. Mr. Xxxxxxxx finds the Student to be polite, not rude, acting like a xx-year old. Mr. Xxxxxxxx plans on getting a county car to take the Student to Guitar Center.[[51]](#footnote-51)
25. In the case of the Student, Mr. Xxxxxxxx’ role is to ensure that through CSB xxx gets those services that xxx needs, but Mr. Xxxxxxxx is not the one to provide the services. Mr. Xxxxxxxx is not the person who would say “you need to go to school, I need you to get up, get dressed, put your shoes on, get in the car, get on the bus, go to school.”[[52]](#footnote-52) In his years of experience his role was never to go into a student’s home to bring them out to get them on a bus.[[53]](#footnote-53)
26. Mr. Xxxxxxxx provided the Parent with a list of organizations for at-home before school transition services. He utilized the Virginia Department of Behavioral Health and Disability Services website to identify a dozen vendors in the greater Richmond area that provide ADA therapy or other sorts of transition services.[[54]](#footnote-54) United Methodist Family Services (XXXX) had also been assisting the Parent in contacting those vendors. [[55]](#footnote-55) The Parent never contacted Mr. Xxxxxxxx to let him know of any potential applications needed with any identified vendors. [[56]](#footnote-56)
27. Some identified vendors were not available to provide services, others were interested, but Mr. Xxxxxxxx does not know if there was a follow-up by the Parent.
28. The Student has lost part of XX Medicaid waiver. Xxx still has XX family and individual service waiver from the CSB. The Student lost the DMAS portion of the waiver because xxx is not going to school. [[57]](#footnote-57)
29. The Parent asked during the second IEP meeting in August 2023 that the school provide social work services at the home.[[58]](#footnote-58) In turn, Mr. Xxxxxxxx suggested home-based services, but the Parent was not in agreement because it would have been a change in placement compared to what she had partially consented to on August 19, 2023.[[59]](#footnote-59)
30. The Parent provided consent to allow Mr. Xxxxxxxx to attend the IEP meetings, and he was invited by the LEA to participate either virtually or in person. [[60]](#footnote-60)
31. For the transition portion of the IEP, the school system ordinarily invites the DARS representative if the student has been linked to DARS for pre-employment transition services (Pre-ETS), or if the Student has a waiver, a service coordinator attends to tell the IEP team what services, what type of waiver they have and what are the plans for a postsecondary employment transition, housing, education.
32. There are 5 areas in the IEP to discuss postsecondary transition.[[61]](#footnote-61) Postsecondary transition refers to transition from public school to college, to work, to employment, to being unemployed and still living at home.[[62]](#footnote-62)
33. In one of the meetings, the discussion centered on other ways to address the Student’s reluctance to leave the house, get on the bus and go to school. Ms. Xxxxxxxxxx from XXXX said that they would need to do a functional behavior assessment (FBA) to determine what XX interfering issues are. The school did not offer to do a functional behavior assessment [[63]](#footnote-63) Mr. Xxxxxxxx volunteered to do an FBA to address interfering behavior. Mr. Xxxxxxxx used the form from the VDOE website and collected the data by interviewing the Parent at her house and the Student. [[64]](#footnote-64)
34. The Parent told Mr. Xxxxxxxx that the school agreed to assist with getting the student out of the house in the morning [[65]](#footnote-65), but he did not hear anyone else at any of the meetings make this statement. [[66]](#footnote-66)
35. There are resources available to the Student through CSB and XXXX: based on the FBA, Mr. Xxxxxxxx would see what support he could put in place, and Ms. Xxxxxxxxxx from XXXX would be able to provide wraparound support outside of the school. [[67]](#footnote-67)
36. Xxxxxxxxxxxxxx is the coordinator of special education, Administrative Services. Mr. Xxxxxxx supports the Special Education Department. He leads the team that supports placement compliance, oversees the behavior team, and places students in the day program. [[68]](#footnote-68)
37. Mr. Xxxxxxx is an expert in special education, IDEA compliance.[[69]](#footnote-69)
38. Mr. Xxxxxxx participated in the Meaningful IEP Meetings Module on line training. [[70]](#footnote-70)
39. Standard-based is not a direct requirement, it is a practice, a tool that can be used for portions of the IEP.[[71]](#footnote-71)
40. Mr. Xxxxxxx has been sending out letters to the Parent on coordinating efforts because the Parent had reached out to multiple people in the Central Office asking questions.[[72]](#footnote-72)
41. Mr. Xxxxxxx served the purpose of trying centralized communication when it comes to meeting notices, invitations, answer the Parent’s questions.[[73]](#footnote-73)
42. Mr. Xxxxxxx has contributed to review of prior written notices together with Ms. Xxxxxxxxx and Dr. Xxxxxxxx. [[74]](#footnote-74)
43. Mr. Xxxxxxx is a credible witness.
44. Dr. Xxxxxxxxxxxxxx is the Director of Special Education. She has been employed by the LEA for a XXXXx over one year. She oversees the special education programs, including the public day school program, the special programs as well as the private day programs. Also she oversees compliance responsibilities.[[75]](#footnote-75)
45. Dr. Xxxxxxx began teaching in 2002 and dedicated most her career to either education or administrative services. She is an expert in Special Education.[[76]](#footnote-76)
46. Dr. Xxxxxxx reviewed the Student’s file, what was being proposed, and became engaged directly with the Parent[[77]](#footnote-77)
47. Dr. Xxxxxxx is a credible witness.
48. Ms. Xxxxxxxx is a specialist in the Department of Special Education. She focuses on compliance.[[78]](#footnote-78)
49. Ms. Xxxxxxxx has participated in IEP meetings for over 20 years.[[79]](#footnote-79) Ms. Xxxxxxxx is an expert in Special Education Planning.[[80]](#footnote-80)
50. Ms. Xxxxxxxx first became involved with the Student in the Spring of 2022. Also, after the Parent filed a Due Process Complaint, she worked on the response, and she was involved in mediation efforts with the Parent.[[81]](#footnote-81)
51. In the Fall of 2022 it was not clear where the Student would be going to school, so Ms. Xxxxxxxx was asked to support the IEP Team as the LEA representative. [[82]](#footnote-82)
52. She has made multiple attempts to try to develop a positive rapport with the Parent. She tried to provide multiple ways to communicate, set up a time for a phone conference to go over testing dates selected in July 2023.[[83]](#footnote-83)
53. Ms. Xxxxxxxx has reviewed the Student’s entire cumulative file.[[84]](#footnote-84)
54. Ms. Xxxxxxxx is a credible witness.
55. xxxxxxxxxxxx is the coordinator of special education at Xxxxxxxxxxxxxxxxxxxx School, overseeing the special education teachers; she orchestrates the eligibility meetings, evaluation meetings, as well as oversee IEP meetings in the school.
56. Ms. Xxxxxxxxx is an expert in Special Education and IEP Development.[[85]](#footnote-85)
57. Ms. Xxxxxxxxx met with the Student virtually during the summer of 2021; started participating in the Student’s IEP meetings in May 2022 as a representative of Xxxxxxxxxxxxxxxxxxxx School. The Student was still in private placement, so she was the coordinator of special education for Xxxxxxxxxxxxx, XX home school.
58. Ms. Xxxxxxxxx is a credible witness.
59. United State Methodist Family Services (XXXX) is a foster care organization, as well as a long-term psychiatric residential facility for complicated children. They have a residential school there in Xxxxxxxxxxxxxxx which is separate from the day program. The kids who live on campus go to a smaller building, and the commuting kids go to a different building, but UMSF and Xxxxxxxxxxxxxxx is really all one organization.[[86]](#footnote-86)
60. The Student was discharged from Xxxxxxxxxxxxxxx because xxx successfully completed the program. xx got all A’s and B’s.[[87]](#footnote-87) [[88]](#footnote-88)
61. The Parent disagrees with the grades that the Student received from Xxxxxxxxxxxxxxx. She maintains that the documents were falsified. A comment on the paperwork regarding the Student’s work does not seem correct for what she knows of the student was doing “Quality is excellent”.[[89]](#footnote-89) Also, the Parent noticed that the xxxx grade math that her younger child was doing in the double-accelerated program was not the same as the Student’s at Xxxxxxxxxxxxxxx while xx was attending xxxx grade there. She brought this up to the IEP team. Also when she reviewed the work from Xxxxxxxxxxxxxxx, she was given a stack of work completed by the Student that looked like what the Student was doing in xxxx grade.[[90]](#footnote-90)
62. Xxxxxxxxxxxxxxx indicated that the Student was using the restroom and handling XX hygiene needs independently and does not require adult prompting,[[91]](#footnote-91) but the Parent disagrees because xxx would come home with filth stuck all over xxxx.[[92]](#footnote-92)
63. The Parent contacted Xxxxxxxxxxxxxxx all the time about those incidents.[[93]](#footnote-93) The Parent reported that the Student would come home in the afternoon xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, which was generally worse by Friday. [[94]](#footnote-94)
64. When the Student was attending Xxxxxxxxxxxxxxx in 2021, the Parent requested records, but never received them. The Parent then went directly to the school to get them with no announcement and she was given two folders stacked with paperwork:
	1. Students started using computers in Spring 2021, but nothing was printed out.
	2. They provided an English folder and a Math folder. A lot of the English sheets had grades 2 through 5 marked on the sheets while the Student was in xxxx grade; in the math folder, many of the sheets were marked 6th grade math. [[95]](#footnote-95)
65. The Parent asked the Student’s case manager at the time, Xxxxxxxxxxxx, to look into why the Student was being given lower grade level of work at Xxxxxxxxxxxxxxx, but she never investigated nor reported back to the Parent.[[96]](#footnote-96)
66. The Parent maintains that she has a statement from Xxxxxxxxxxxx from the August 2022 IEP meeting admitting that she never monitored the Student’s work while the Student was at Xxxxxxxxxxxxxxx. [[97]](#footnote-97)
67. Xxxxxxxxxxxxxxx attended IEP meetings while the Student was there.[[98]](#footnote-98)
68. The Parent asked that the Student be removed from Xxxxxxxxxxxxxxx in the Spring 2022 and had discussions with the LEA’s Chief Academic Officer, Dr. Xxxxxx, regarding this.[[99]](#footnote-99)
69. The Student’s report card from xxxxxxxx grade at Xxxxxxxxxxxxxxx was particularly problematic for the Parent: first quarter results were low, but the Parent was not shocked because they had had a lot closures; same for the second quarter; She was, however, surprised to see low scores in standardized tests; then in the third quarter it was all As and Bs[[100]](#footnote-100) which did not seem in line with prior results. She routinely requested the MAP scores or district level testing from the principal, Xxxxxxxxxxxxxxxxxxxxx, at XXXX and never received them.[[101]](#footnote-101)
70. The Parent brought her concerns about Xxxxxxxxxxxxxxx to Dr. Xxxxxx. The Parent was concerned that the Student wants to go to college and colleges look at xxxx grade scores/grades. So Dr. Xxxxxx said that they would allow the Student to repeat xxxx grade but only if xxx went to public school.
71. The Parent requested that the Student be removed from Xxxxxxxxxxxxxxx.
72. In the Discharge Summary from Xxxxxxxxxxxxxxx[[102]](#footnote-102), the last sentence that reads “Xxxxxxxxxxxxxxx agrees with the IEP recommendation that the Student transition fully to public school” was put forth by the Parent.[[103]](#footnote-103)
73. The Parent voiced repeatedly her dissatisfaction with Xxxxxxxxxxxxxxx during the IEP meetings, and discussed with the IEP Team the fact that Xxxxxxxxxxxxxxx could not compensate for learning loss during the summer, in her opinion, because she knew that Xxxxxxxxxxxxxxx did not receive funding for recovery of learning and, therefore, they did not have summer programs available. However, the record pertaining to the August 2022 IEP meeting does not reflect any of this and does not reflect that it was Dr. Xxxxxx who said that he would allow the Student to repeat xxxx grade but only if xxx were in public school.[[104]](#footnote-104)
74. Parent maintains that Dr. Xxxxxx told her in the IEP meetings and in individual discussions with her that the Student should go back to xxxx grade because of “gaps in learning”. [[105]](#footnote-105) However, the Parent believed that with the record not reflecting what was said by Dr. Xxxxxx, she would have problems with the two newly hired individuals, Dr. Xxxxxxx and Mr. Xxxxxxx.[[106]](#footnote-106)
75. The Student attended five (5) days out of fifteen (15) of summer school in 2022. According to the Parent this was because during those days xxx was scheduled to have testing and xxx wanted to show the school division what xxx could do.[[107]](#footnote-107)
76. The purpose of summer school was to try to get the Student back into public school setting, and look at creative ways to assess where the Student was. The school wanted to get as much information as possible to instruct the student and assess xxxx.[[108]](#footnote-108)
77. While in summer school, the Student was able to meet the expectations of the class in terms of computer use. [[109]](#footnote-109)
78. During summer school there were no xxxxxxxxxx accidents or difficulties noted; there were no documented behavior issues, such as being aggressive or combative. [[110]](#footnote-110) Xxx questioned more than anything else; for example, Summer school was a four-hour day; the school arranged for additional support time at the end of the summer school day and xxx was questioning why xxx had to stay later compared to the other students.
79. At the September IEP meeting, the General Education Teacher said she did not have work samples because of some work refusal from the five out of the fifteen days that the student was there.
80. Xxxxxxxxxxxxxxxx is an xxxx grade English Teacher at Xxxxxxxxxxxxxxxxxxxx School.[[111]](#footnote-111) She is an expert in development of English curriculum and English instruction.[[112]](#footnote-112)
81. Ms. Xxxxxxxx is a credible witness.
82. Ms. Xxxxxxxx had the Student in summer school in 2023.[[113]](#footnote-113)
83. They were a total of 7 students.
84. During summer school, the Student would come in quietly and take a seat. Xxx would open up XX Chromebook, take a look at the warm-up, get logged in. Xxx would make attempts to complete XX assignments and looked at whatever work we were doing that day and completed what xxx could of the work.[[114]](#footnote-114)
85. The work during summer school was xxxx grade curriculum.[[115]](#footnote-115) For example, the Student was working on reading SOL standards 8.5 and 8.4. [[116]](#footnote-116)
86. Xxx demonstrated some level of difficulty completing the work. XX level of difficulty was no more no less than any of the other students. Some students attending summer school were receiving general education, some had an IEP. [[117]](#footnote-117)
87. During summer school, Ms. Xxxxxxxxxxx assisted xxxx with the materials in class, particularly some of the electronic resources or paper resources. She would assist xxxx in completing assignments, explain directions, proposals and questions with alternate wording so that xxx was able to complete assignments. Ms. Xxxxxxxxxxx also would pull xxxx out to do one-on-one instruction.[[118]](#footnote-118)
88. The Student did not have any behaviors that interfered with XX ability to access the curriculum.[[119]](#footnote-119)
89. The Student never reported any physical xxxxxxxxxxxxxxxxxx or other issues, any stress related to XX hygiene or medical condition.[[120]](#footnote-120)
90. Ms. Xxxxxxxx is a credible witness.
91. It was predetermined that the Student would go back to public school:[[121]](#footnote-121) The Parent had contacted Dr. Xxxxxxxxx, the principal at Xxxxxxxxxxxxxxxxxxxx School, before the pandemic and told xxxx she wanted the Student to be an xxxx grader there and reintegrate xxxx in public school. [[122]](#footnote-122)
92. The Student’s xxxxxxxx also attends Xxxxxxxxxxxxxxxxxxxx School and XX is in the gifted program.[[123]](#footnote-123)
93. The Parent believes that fundamentally Dr. Xxxxxxx was not in agreement with keeping the Student in xxxx grade, and that the LEA wanted to socially promote the Student.[[124]](#footnote-124) [[125]](#footnote-125)
94. Prior to the start of the 2022-2023 the Parent was still seeking private school application with Xxxxxxxxxxxxxx School for Autism.[[126]](#footnote-126) [[127]](#footnote-127)
95. The school received an email from a private day school who was working with the Parent. The school received an invitation from the school to participate in a virtual tour, which was declined because they did not have consent to exchange information with the school.[[128]](#footnote-128)
96. Via August 9, 2022 correspondence,[[129]](#footnote-129) the school sought clarification on placement, consent to exchange information if she was seeking private placement, proposed two schools: the Xxxxxxxx School and Xxxxxxxxxxxxxxxxxxxx. In the alternative, if she wanted public school placement, she asked the Parent to sign the IEP.[[130]](#footnote-130)
97. On August 9, 2022 Dr. Xxxxxxx asked for releases so that Xxxxxxxxxxxxxx could facilitate getting the Student into another private school. The Parent did not give consent or provide the releases because it was never her intention for the Student to go to private school. She only applied to Xxxxxxxxxxxxxx “out of spite”[[131]](#footnote-131)
98. The Student was discharged from Xxxxxxxxxxxxxxx School in June 2022. However, after that, the Parent had not consented to the IEP to change the Student’s placement to public day school. Furthermore, XXPS did not have any releases from the Parent to communicate with private schools to get the Student into another private school.[[132]](#footnote-132)
99. On September 21, 2022, Mr. Xxxxxxx sent correspondence to the Parent advising her that they could not accept the handwritten notes on the August 23, 2022, IEP and requested that she return the IEP Amendment dated September 1, 2022. Mr. Xxxxxxx also proposed additional dates and times for the IEP Team to reconvene. [[133]](#footnote-133) [[134]](#footnote-134)
100. Partial consent can be a way for schools and parents to address issues that both parties can agree to where it is clear what the parent has agreed to.[[135]](#footnote-135) [[136]](#footnote-136)
101. The Parent wrote handwritten notes on the August 19, 2022, IEP Amendment.[[137]](#footnote-137) The Parent did not check the space either to give consent or to deny consent. The Parent wrote “I consent to [the Student] attending Xxxxxxxxxxxxxxxxxxxx School, 8/22/2022”, “I consent to special education transportation, 822/2022”, “I do not consent to the reduced special education.”
102. Although the Parent identified a specific school this did not amount to a change in placement there are public day school, public separate school, private day school, residential school, private residential school. A student homeschool could be at Xxxxxxxxxxxxxxxxxxxx School, but the Student may still receive homebound instruction.[[138]](#footnote-138)
103. Despite being provided dates and times for the IEP team to reconvene, the Parent did not schedule a new IEP meeting. [[139]](#footnote-139)
104. On October 27, 2022, Mr. Xxxxxxx via email communicated to the Parent that they needed clarification on what was being consented to and what wasn’t. The Parent did not respond to the email correspondence.[[140]](#footnote-140) [[141]](#footnote-141)
105. On October 28, 2022, Mr. Xxxxxxx wrote another letter to the Parent in an effort to gain consent to an IEP.[[142]](#footnote-142) [[143]](#footnote-143)
106. On December 2, 2022, Mr. Xxxxxxx wrote a follow-up letter to the Parent expressing the necessity of scheduling another IEP meeting to gain consent to the IEP and provided three additional dates and time to reconvene. [[144]](#footnote-144) [[145]](#footnote-145) The Parent did not respond. [[146]](#footnote-146)
107. On December 2, 2022, a meeting notice was sent via email for December 15, 2022. [[147]](#footnote-147) The IEP Team reconvened on that day, but the Parent did not participate.[[148]](#footnote-148) The Parent did not attend the meeting because she had surgery that day.[[149]](#footnote-149)
108. The prior written notice dated August 19, 2022 states that the school proposes to change the Student’s educational placement from private day school to the public school setting.
109. Mr. Xxxxxxx’s opinion is that being enrolled in Xxxxxxxxxxxxxxxxxxxx School would not have changed placement because the Student could have still have home-based instruction.[[150]](#footnote-150)
110. The Student was promoted to xxxx grade by the Xxxxxxxxxxxxxxx School, but Xxxxxxxxxxxxx does not have a xxxx grade.
111. The Parent did not give consent to any of the goals, accommodations or modifications or transitions services. Based on how the services and the goals were written, the IEP could not have been implemented at Xxxxxxxxxxxxxxxxxxxx School. [[151]](#footnote-151)
112. The purpose of the August 19, 2022, IEP meeting was to get the Student to public school.[[152]](#footnote-152) Xxxxxxxxxxxxxx Public Schools proposed an IEP to change the Student’s placement from private day school to public day school.[[153]](#footnote-153) [[154]](#footnote-154)
113. The PWN associated with the August 19, 2022[[155]](#footnote-155) articulated the proposal and refusals that the school made as part of that meeting.[[156]](#footnote-156)
114. Ms. Xxxxxxxxx’s opinion is that the August 19, 2022 IEP amendment was appropriate to ensure that the Student made progress by considering the functional performance and the academic performance, as well as input from the parents, teachers, as well as the educational and psychological testing to define strengths and weaknesses, and maybe some of XX deficits. With that information, the team was able to come together and propose the goals that would assist the Student in this circumstance.[[157]](#footnote-157)
115. The Student’s goals in this IEP were appropriately individualized. [[158]](#footnote-158)
116. Ms. Xxxxxxxxx’s opinion is that consent to attend Xxxxxxxxxxxxxxxxxxxx School is not the same as consent to a change in placement.[[159]](#footnote-159) Xxxxxxxxxxxxxxxxxxxx School does not have xxxx grade.[[160]](#footnote-160) A child can be zoned to Xxxxxxxxxxxxxxxxxxxx School and get homebound and home-based instruction.[[161]](#footnote-161) The Parent only consented to transportation and to Xxxxxxxxxxxxxxxxxxxx School, but not to goals, accommodations, or modifications, or transition services.[[162]](#footnote-162)
117. Looking at the writing from the Parent regarding hours, which were marked as “Incorrect”[[163]](#footnote-163) by the Parent, Ms. Xxxxxxxxx did not understand what it meant.[[164]](#footnote-164)
118. The School division then proposed an IEP Amendment on September 1, 2022 that changed only the placement and services to the public day school,[[165]](#footnote-165) but the Parent did not provide consent.[[166]](#footnote-166) This reaffirmed in Ms. Xxxxxxxxx’s mind that the Parent had in fact not agreed to change placement on the August 19, 2022 IEP.[[167]](#footnote-167)
119. The Parent knew that the school needed more data and decided to send daily emails to the school regarding the Student’s mental health from the beginning of the 2022-2023 school year.
120. After October 2022 the Parent stopped because she felt ignored because nobody was responding. No one was responding about request for social services, for counseling, for any kind of psychological services from the school division.[[168]](#footnote-168)
121. A Prior Written Notice[[169]](#footnote-169) was prepared that outlines the proposals and refusals that occurred during the September 29, 2022 meeting.
122. A Prior Written Notice[[170]](#footnote-170) was prepared outlining the proposals and refusals that occurred during the October 14, 2022 meeting.
123. The IEP of December 22, 2022[[171]](#footnote-171) includes a Prior Written Notice outlining the school division’s proposals and refusals. The Parent did not participate in this meeting, but she received the document at a later time.[[172]](#footnote-172)
124. On February 7, 2023 there was a meeting for the Corrective Action Plan and a Prior Written Notice was provided to the Parent.[[173]](#footnote-173)
125. Prior Written Notices were normally emailed to the Parent.[[174]](#footnote-174)
126. Meeting on August 10, 2023, then on August 30, 2023, then on September 28, 2023, and a Prior Written Notice dated October 5, 2023[[175]](#footnote-175) In this PWN the school stated that the full IEP had not been completed yet, but they were sending the PWN to explain some of the proposals and refusals that occurred so far.[[176]](#footnote-176)
127. Another PWN was sent to the Parent after the IEP that was proposed on October 16, 2023[[177]](#footnote-177), but the Parent did not read it because the Parent was “sick and tired of the school division refusing what X. needs while they try to constantly claim that they have been providing FAPE, which is completely false.” The Parent stated that they had filed due process by this time so “I’m like they are not going to give me anything that is in X’s best interest no matter what I do. I did not open this document because it didn’t matter at that point to me what it said because I knew what it was going to say because I know I can predict – I learned the pattern.”[[178]](#footnote-178)
128. At the start of school year 2022-2023, the Student was ready to ride the bus to attend public school, but the bus never came. The Parent thinks that Dr. Xxxxxxx canceled transportation.[[179]](#footnote-179)
129. Dr. Xxxxxxx explained to the Parent that transportation was being canceled because there was no IEP that had been signed changing the Student’s placement to public day school. Then on August 19, 2022 IEP meeting, they had proactively set up transportation for the Student awaiting the Parent’s written consent to change of placement.[[180]](#footnote-180)
130. In the email dated August 24, 2022 [[181]](#footnote-181)Dr. Xxxxxxx expressed that the school division was not clear as to what the Parent was consenting to and she asked for another IEP meeting, one being the very next day.[[182]](#footnote-182) But the Parent stated that because they had already canceled transportation, she “knew they were not going to budge”[[183]](#footnote-183)
131. For summer school, there was special transportation arranged because the normal transportation could not be arranged due to the timing of the consent. So there was a car that picked up the Student.[[184]](#footnote-184)
132. Transportation is being sent every day for the 2023-2024 school year.[[185]](#footnote-185)
133. The school district made FAPE available to the Student every day of the 2022-2023 school year.[[186]](#footnote-186)
134. Parent took control of the September 28, 2023 meeting because the facilitator was failing her job and the meeting was chaotic.[[187]](#footnote-187)
135. The School division has sat down with the Parent for five or six hours, some days over the course of multiple days with the Parent to develop the Student’s Present Level, but the Parent maintains that they did not “work” with her, rather simply spent several hours together.[[188]](#footnote-188)
136. The Parent expressed concern about the IEP being written in isolation. [[189]](#footnote-189)
137. The Parent feels that it is “them versus me” and that is not a team.[[190]](#footnote-190)
138. The IEP team met on October 18, 2021, but the IEP document has at the bottom a creation date of October 27, 2021. The Parent was not included in the creation of the document.[[191]](#footnote-191)
139. The IEP does not state what type of training the individual will receive who was going to assist the Student with ADL, toilet hygiene and this was a concern for the Parent.[[192]](#footnote-192)
140. The IEP states nursing services “no”, personal care services “no”. According to the Parent this was predetermined at the IEP meeting.[[193]](#footnote-193)
141. The IEP team decided that ESY services would not be provided until 5/31 and according to the Parent this was predetermined.[[194]](#footnote-194)
142. The School never addressed with the Parent the continuum of placement options despite being noted on the IEP that no single model for delivery of services to any population or category is acceptable.[[195]](#footnote-195)
143. The Parent believes that the law firm representing the school division is ghostwriting the IEPs. The Parent has examined IEP’s across districts in which the law firm represents the school division and there are many “consistencies”, some parts have been verbatim specifically as it pertains to progress monitoring.[[196]](#footnote-196) [[197]](#footnote-197)
144. When the Parent had IEP drafts in advance they had already checked all boxes to say “no”.
145. In the updated EIP of March 15, 2022 it states that the Student will receive ADL training from a qualified professional for one week, but the Parent never agreed to a one week crash course and it did not say who the qualified professional was.[[198]](#footnote-198)They did not explain the rationale for only one week.[[199]](#footnote-199)
146. The Parent requested that the Student receive a social worker or a qualified mental health provider to support all of XX needs which are behavioral, organizational, executive function and xxxxxxxxxx, but in the PWN there is never mention that the IEP team considered a qualified mental health provider to come to the home and assist the student.[[200]](#footnote-200)
147. According to the Parent Ms. Xxxxxxxxx agreed that the Student needed a Qualified Mental Health Professional. She is the person who suggested it.[[201]](#footnote-201) After Ms. Xxxxxxxx shut Ms. Xxxxxxxxx up, Ms. Xxxxxxxxx started treating the Parent the same way Ms. Xxxxxxxx does.[[202]](#footnote-202)
148. The IEP Amendment from June 2, 2022[[203]](#footnote-203), states that the school refuses to include in the IEP that the Parent will have access to personal contact information for staff who work with the Student. The Parent did not want their personal contact information, just their professional information, email address, name and phone number to contact them regarding the Student.[[204]](#footnote-204)
149. The IEP also stated that the school refuses to specify in the IEP that the Student requires an aide who is board certified as behavioral analyst or a trained applied behavior analyst; this was a request the team discussed as somebody who could potentially support all of XX needs. And the Parent requested that the aide be a female because the Student does not see a male in a nurse rule.[[205]](#footnote-205)
150. The IEP also states that observation and input from the Student’s team at Xxxxxxxxxxxxxxx does not indicate the need for an FBA.[[206]](#footnote-206)
151. The Parent acknowledged that it is the school division’s responsibility to create a draft for the parent’s review and that there is no law or regulation that gives parent the right to participate in the creation of an IEP draft.[[207]](#footnote-207)
152. In the 2021 IEP, which is the last consented to IEP, one of the accommodations provided is assistance for Activities of Daily Living (ADL), xxxxxxxxxx, hygiene after xxxxxxxxxx.[[208]](#footnote-208)
153. The last agreed IEP of October 2021[[209]](#footnote-209) was supposed to be the result of Dr. Xxxxxxxx Xxxxxxx, Deputy Superintendent, being involved saying “you give me a detailed letter of medical needs, we are going to cut the red tape and make sure xx has an aide”.[[210]](#footnote-210) But when the Parent asked for reports, she realized that it was not a medical aide that was supporting the Student, rather a regular aide. She noticed that when the Student was commuting to school from residential (XXXX), xx was coming home filthy. [[211]](#footnote-211)
154. The Parent provided the IEP Team with a letter from Dr. Xxxxxxxxxx, indicating that the Student needed a medical aide.[[212]](#footnote-212) However, when members of the IEP team reached out to the doctor, he clarified that he was not ordering a medical aide, and this was documented in a prior written notice of the March 20, 2022 meeting.[[213]](#footnote-213)
155. The student’s xxxxxxxxxx needs and Dr. Xxxxxxxxxx’s clarification has been a topic of discussion in multiple IEP meetings. The clarification provided by the doctor was that someone who worked for the school, who was trained by a healthcare provider, such as a school nurse or someone in a similar position could train an individual to provide for the student’s healthcare needs.[[214]](#footnote-214) This was related to the IEP Team by Xxxxxxxxxxxxxxx who spoke with Dr. Xxxxxxxxxx. [[215]](#footnote-215)
156. The Parent shared with the Principal of Xxxxxxxxxxxxxxxxxxxx School that she had two big challenges in the IEP meetings and therefore wanted him to be present as an administrator: The Parent wanted a morning aide to come to the home to assist the Student get ready, get xxxx on the bus, and a licensed medical aide in the school. Also in the Fall of 2023, the Parent requested social work services.[[216]](#footnote-216)
157. The Parent has not signed many IEPs because “they won’t give [the Student] potty support, the proper potty support.” [[217]](#footnote-217)
158. In the PWN dated 3/15/22[[218]](#footnote-218) Xxxxxxxxxxxxxx proposes to provide the Student with a training XXPS staff member to work with the Student as a XXPS building to assist xxxx with XX hygiene and xxxxxxxxxx needs, as part of ADL training. The Student was still at Xxxxxxxxxxxxxxx at this time.[[219]](#footnote-219)
159. In the IEP Amendment dated June 2, 2022, it is documented that the IEP Team discussed Dr. Xxxxxxxxxx’s clarification as to what type of personnel was needed to service the Student.[[220]](#footnote-220)
160. On April 25, 2023 the Student had a virtual visit with Dr. Xxxxxxxxxx.[[221]](#footnote-221) He recommended that he could write a letter to the school, but that if the Student was refusing all aid, he could not insist that the school assist with XX in a combative large child.[[222]](#footnote-222)
161. In the most recent IEP of October 16, 2023 there is an accommodation for a trained person to assist the Student with XX xxxxxxxxxx and hygiene needs[[223]](#footnote-223) Parent maintains that even though it was addressed in every single IEP in one form or another since October 2021, it was never implemented in such a way as to provide any assistance of a hygienic nature.[[224]](#footnote-224)
162. The Parent asked that the aides come into the house, but the Principal never provided that support because the aides are supposed to stay on the bus.[[225]](#footnote-225) However, he was aware that this service was being provided to the Student by personnel other than XXPS personnel, namely by FAPT, but that the Parent wanted XXPS to provide the service.
163. There has been an instructional aide from Xxxxxxxxxxxxxxxxx every day as Xxxxxxxxxxxxxxxxxxxx School since the first day of school to assist the Student and get xxxx accustomed to being a in a large public school setting. Also, there were two aides, trained to interact and support students with autism, on the bus to assist the student. [[226]](#footnote-226)
164. On September 28, 2023, members of the IEP team informed the Parent that there were 7 female trained instructional assistants at Xxxxxxxxxxxxxxxxxxxx School that would be available to provide xxxxxxxxxx services to the Student. But the Parent contends that because they were not medical health aides they did not meet the level of qualifications needed. [[227]](#footnote-227) Training for the instructional assistants would be done by Xxxxxxxxxxxxxxx, a special education nursing specialist for Xxxxxxxxxxxxxxxxxxxxxxxxx Public Schools.[[228]](#footnote-228)
165. The Parent stated that there is a Uniform Assessment Instrument (UAI) that says that the Student must have a medical aide[[229]](#footnote-229), but the Parent did not produce it and then attempted to retract the statement. [[230]](#footnote-230)
166. The IEP Team also informed the Parent that one of the trained instructional aides would be on the bus.[[231]](#footnote-231) Also the Student would have a restroom just for xxxx with a shower and a change of clothes available to xxxx, but the Parent denies ever being informed of that.[[232]](#footnote-232)
167. In the June 2, 2022 meeting documents considered from Xxxxxxxxxxxxxxx were report cards, the team discussed xxxxxxxxxx needs and hygiene.
168. Ms. Xxxxxxxxx confirmed that at the meeting is was discussed that staff at Xxxxxxxxxxxxxxx had spoken directly to Dr. Xxxxxxxxxx and obtained clarification about the type of aide, and based on that recommendation the school proposed that a trained instructional aide would assist the Student with XX xxxxxxxxxx and hygiene needs.[[233]](#footnote-233)
169. Ms. Xxxxxxxxx stated that it not true that she proposed or agreed to have a Xxxxxxxxxxxxxxxxxxxxxxxxx public school person go to the house.[[234]](#footnote-234)
170. The school as also contracted with a person to go to Xxxxxxxxxxxxxxxxxxxx School in the event that they needed additional support for the Student[[235]](#footnote-235)
171. At Xxxxxxxxxxxxxxxxxxxx School several students are wheelchair bound, so the instructional aides have to use supported lifts to change them. Many are wearing diapers and there are also students with feeding tubes. The instructional aides are trained to assist, but xxxxxxxxxx is one of our main things in the self-contained classrooms that they are trained to do.[[236]](#footnote-236)
172. The instructional aides have training on how to wipe a student if necessary, how to change their clothes if they get soiled, how to identify if a child needs ointments or has soiled themselves. Instructional aides deal with this type of thing on an hourly basis.[[237]](#footnote-237)
173. During the May 28, 2022 meeting, Xxxxxxxxxxxxxxx stated that the Student had improved with regards to XX behavior in xxxxxxxxxx and hygiene and xx was doing well with XX one-to-one aide.[[238]](#footnote-238)
174. The school’s social worker is Xxxxxxxxxxxxxxxx. She is at the school 2-3 days per week. She makes at times home visits.[[239]](#footnote-239)
175. Mr. Xxxxxxxxx participated in the standards-based IEP Development.
176. Although Mr. Xxxxxxxxx was made aware of the Student having school refusal issues, he did not have any other recommendation or provide any additional support. [[240]](#footnote-240)
177. The Parent provided daily updates regarding the Student to the school staff via email describing the struggles of that day and why xx did not get on the school bus. xx would shower and get dressed, but xx would not put on XX shoes or had a meltdown. [[241]](#footnote-241)
178. The Parent has attempted to enroll the Student multiple times. During orientation day for the 2022-2023 school year, the Parent went to enroll the Student into Xxxxxxxxxxxxxxxxxxxx School. Mr. Xxxxxxxxx advised the Parent that the Student’s IEP still reflected “private day school” and for this reason the Student could not be enrolled into Xxxxxxxxxxxxx. He encouraged the Parent to meet back with the IEP team to chance placement to Public Day School. The Principal shared this information with Dr. Xxxxxxx. [[242]](#footnote-242) On December 7, 2022 the Parent tried to enroll the Student again. [[243]](#footnote-243)
179. Prior to orientation day, no steps had been taken by the Parent to get placement changed from private day to public.[[244]](#footnote-244)
180. To address the Student’s attendance, Mr. Xxxxxxxxx has been in communication with the Parent numerous times about what they can do to help the Student get to school. XX absences were marked excused. For this reason, the school has not sent the five-day unexcused call and then set up the ten-day unexcused meeting with the parent.[[245]](#footnote-245)
181. Mr. Xxxxxxxxx did not refer the Student to the Truancy Prevention Team and does not know who did.[[246]](#footnote-246)
182. The Attendance Team at school makes referrals for students to be reviewed by the Truancy Prevention Team; Dr. Xxxxxxxxxxx is the administrator that is part of the team.
183. Dr. Xxxxxxxxxxxxx, Coordinator, School Social Work Services at the LEA, is an expert in school social work. In her current role, she oversees school social workers, and works with families of students who are truant. [[247]](#footnote-247)
184. Dr. Xxxxxx is an expert in social work in public schools.
185. Dr. Xxxxxx is a credible witness.
186. Dr. Xxxxxx participated in the Meaningful IEP Development Training in 2022.[[248]](#footnote-248)
187. Dr. Xxxxxx never met the Student.
188. Although School Social Workers make home visits, Dr. Xxxxxx was not aware of any request for a home visit nor suggested a home visit. [[249]](#footnote-249)
189. Dr. Xxxxxx felt it was unsafe to have a social worker go to the Student’s home based on behaviors that the Parent exhibited in two virtual meetings where the Parent appeared agitated and, eventually, hung up unexpectedly and intentionally disconnecting from the meeting.[[250]](#footnote-250)
190. On October 27, 2022, Dr. Xxxxxx wrote a letter to the Parents asking them to work together to enroll the Student. She advised the Parents that she would be happy to support them in the process of enrolling the Student into Xxxxxxxxxxxxxxxxxxxxxxxxx Public Schools. [[251]](#footnote-251) [[252]](#footnote-252)
191. On November 17, 2022, the Parent participated in a virtual meeting which resulted in the creation of the 2022-2023 School Year XXPS Attendance Success Plan. Other participants included the Intense Care Coordinator with XXXX (Ms. Xxxxxxxxxx), the Coordinator of School Social Work Services (Dr. Xxxxxx), the School Social Worker (Ms. Xxxxxxxxx). [[253]](#footnote-253) Despite being virtual, the Student did not participate in this meeting. The purpose of the meeting was to devise an action plan to re-engage and re-enroll the Student. Participants identified strengths and opportunities with regards to academics, social, emotional, family resilience factors. [[254]](#footnote-254)
192. The Attendance Success Plan identified external supports for the Student, that is referrals for outside agencies to include a Case Manager with Community Service Board, and services with Family Assessment Planning Team (FAPT) to request a Family Support Partner for the Parent.[[255]](#footnote-255)
193. At the conclusion of the November 17, 2022 meeting, it was very clear that the Intensive Care Coordinator with XXXX would engage the Community Service Board to have personal resources for the Student and parenting support in the home.[[256]](#footnote-256)
194. Pursuant to the Attendance Success Plan, the recommendations made were to be reviewed and compliance was expected by January 17, 2023. It was also noted that failure to fulfill the responsibilities in the plan by the Student or the Parent may result in a referral to the Xxxxxxxxxxxxxx Juvenile and Domestic Relations Court. [[257]](#footnote-257) [[258]](#footnote-258)
195. The LEA never referred the Parent to Juvenile and Domestic Relations Court.
196. The Parent pointed out several inaccuracies about the Attendance Success Plan dated November 17, 2022[[259]](#footnote-259)
	1. It noted that Student is attending both Xxxxxxxxxxxxxxxxxxxx School and Xxxxxxxxxxxxxxxxx School. The Parent pointed out that she did not know where to send the Student and also Dr. Xxxxxxx had canceled transportation. [[260]](#footnote-260)
	2. The form used the Attendance Success Plan states at the top that it is supposed to address chronic absenteeism through a restorative approach, but no one offered to have a restorative justice circle with the Parent to try to repair the harm that exists regarding the school division.[[261]](#footnote-261) The school division own attendance plan requires the school to reach out and find out what’s going on if a student has missed six days before they dis-enroll them.
	3. The Attendance Success Plan team should be comprised of school administrators, counselors, social workers, teachers, nurses, or any personnel deemed appropriate to contribute.[[262]](#footnote-262) But in the meeting there were only the Parent, Dr. Xxxxxx, the case manager (xxxxxxx Xxxxxxxxxx).
	4. The last page states that Xxxxxxxxxxxxxxxx is the social worker. She has participated in other meetings and IEP meetings, but never knew her role.[[263]](#footnote-263)
	5. The Plan does not state attendance history as required. The Parent questioned it.
	6. The Plan states that the Student enjoys being active, bowling, and top golf. The Student has not done that in a long time. So it was clear they were lifting information from XXXX.
	7. The Plan states that the learning loss was due to nonenrollment into an approved academic program, which is inaccurate because Parent believes that the learning loss was due to the Student receiving below-grade level instruction at Xxxxxxxxxxxxxxx.
	8. The document also has social/emotional support needs, but no one ever sought the Parent input, so whoever filled that section out made that determination.[[264]](#footnote-264)
	9. The Parent believes and repeatedly voiced that the Student’s school refusal issues arise from the fact that xx is angry that xx is in the same grade has XX XXXXx brother, is experiencing anxiety because xx knows that there is not an appropriate medical care person at the school.[[265]](#footnote-265) xx is afraid xx is going to sit in filth where xx is not clean. Sometimes xx has a massive xxxxxxxxxx; happened this morning.[[266]](#footnote-266) Yet the documents do not reflect this issue, only identifies as barrier transportation and no enrollment.
	10. Also the Attendance Success Plan states that the reason for the absences or tardies is that the Student was not matriculated as a student this year due to concerns expressed from the Parent regarding previous school experiences. The Parent instead maintains that it is not that she wants the Student to stay in xxxxxxxx grade, it was legitimate documentation that she provided to the chief academic officer in June or May 2022, and the student has not matriculated because Dr. Xxxxxxx canceled XX transportation and did not let the Parent enroll the Student in Xxxxxxxxxxxxxxxxxxxx School. This is what XX barrier to education was for the 2022-2023 school year. [[267]](#footnote-267)
	11. The Attendance Success Plan does not include a Student counselor’s name. When she brought this up she was shut down. Dr. Xxxxxx just kept talking over the Parent. Dr. Xxxxxx treated her like she is treated in EIP Meetings. If she asks questions or express a concern, they don’t want to talk about it, they just want to move along.[[268]](#footnote-268)
	12. Many other parts of the documents are not filled out. Early dismissal, attendance history, unexcused absences, excused, all blank.
	13. The section about strengths: the Student is a genius in math, the Student does mechanical engineering in XX head and the Parent has told the school division this multiple times, yet is it blank on the form.
	14. When it talks about XX opportunities, the Parent was never consulted for that as a team member. The form says that the Student was withdrawn in July 2022, but no one explained why and when the Student was unenrolled. Furthermore, the when the Parent asked “How do you unenroll a student backwards” “it is automated” was the answer.
197. At the meeting, Dr. Xxxxxx refused to document the Parent’s efforts to enroll the Student, and this is why the Parent hung up out of frustration.[[269]](#footnote-269)
198. The interaction with Dr. Xxxxxx when the Parent hung up during the meeting, was due to frustration with repeatedly explaining to Dr. Xxxxxx that the Student was not truant. xx was not allowed to go to school and that that did not qualify as truancy. She never received any robo calls, or emails regarding unexcused absences.[[270]](#footnote-270)
199. Parent attempted to enroll the student multiple times. She tried to enroll the Student in Xxxxxxxxxxxxx, but could not. The records had been moved to Xxxxxxxxxxx, she went to Xxxxxxxxxxx to enroll xxxx and they said no, confirmed that they had the Student’s records, but did not know what was going on.[[271]](#footnote-271)
200. By letter dated February 9, 2023[[272]](#footnote-272), Dr. Xxxxxx invited the Parents to attend a virtual meeting on March 1, 2023, with the Xxxxxxxxxxxxxx Community Attendance Team (“Truancy Prevention Team”.) The purpose of the meeting was to create another layer of support to re-engage the Student. [[273]](#footnote-273)
201. Participants to the March 1, 2023 meeting included: the Parent, the Attendance Social Worker, the School Social Worker, Xxxxxxxxxxxxxx as a representative of the school Special Education Department, the School Nurse Supervisor, a representative of the Xxxxxxxxxxxxxx Department of Social Services, a representative of the xxxxx District Court Services Unit, a representative of the Xxxxxxxxxxxxxxxxxxxxxxx Health Center. Despite the meeting being held virtually, the Student did not participate. [[274]](#footnote-274)
202. The Truancy Prevention Team meeting is mandatory prior to going to court of juvenile domestic relations for failure to comply with the Attendance Service Plan. [[275]](#footnote-275)
203. As part of the Attendance Service Plan were referrals to Xxxxxxxxxxxxxxxxxxxxxxx Health, Community Service Board. The Parent was to work with ICC, the XXXX, to develop a daily schedule to transition back to school. The student had services with behavioral health and XXXX, so they were at the meeting to listen and to engage as to what additional supports could be referred for additional services, which included services in the home to transition the student back into the school building. [[276]](#footnote-276)
204. Dr. Xxxxxx stated that no one had made her aware that the Student was refusing to come to school.[[277]](#footnote-277)
205. Adaptive skills, functional skills, daily living skills include the ability of a student to attend school, be where they are supposed to be and when. [[278]](#footnote-278)
206. While the Attendance Service Plan includes a directive for the Parent to participate and engage with the XXPS Special Education Department to create and implement an IEP for the Student for the 2022-2023 school year, generally[[279]](#footnote-279), Dr. Xxxxxx did not approach directly any members of the IEP Team, Ms. XXXXx, or the case manager to suggest that the IEP Team address attendance as a deficit under adaptive skills. [[280]](#footnote-280)
207. In the March 1, 2023 meeting with the Truancy Prevention Team, the Parent was not agitated, she was very pleasant, was open to suggestions as well as helped the team align with what support would be necessary for the Student.[[281]](#footnote-281)
208. Xxxxxxx Xxxxxxxxx has been the principal of Xxxxxxxxxxxxxxxxxxxx School since 2019. This is when he first started interacting with the Parent.[[282]](#footnote-282)
209. Principal is the custodian of records and the Student’s permanent file is at Xxxxxxxxxxxxxxxxxxxx School. The file is divided into sections, but the Principal does not know if there are tabs or a table of contents. [[283]](#footnote-283)
210. To the principal’s knowledge, the Parent received a copy of the Student’s entire file; he remembers seeing the office staff making digital copies for the Parent.[[284]](#footnote-284)
211. The Parent asked to review test records. Because of copyright infringement concerns, Dr. Xxxxxxx advised that they could not be emailed to the Parent, but the Parent could come in a review them at any time. [[285]](#footnote-285) To the best of the Principal’s knowledge, the protocols, answer sheets are in the Student’s educational record. The Parent emailed the Principal about the Fair Use Law and FERPA’s memorandum regarding testing protocols, but Dr. Xxxxxxx advised the principal not to share them. [[286]](#footnote-286)
212. The Student’s cumulative file was brought to the IEP meetings; it was on the table and the Parent had access to it; and in at least one instance, February 2023, Xxxxxxxxxxxx looked at the documents and the records.[[287]](#footnote-287)
213. The Parent has requested that student records be sent electronically. Mr. Xxxxxxx arranged for records from June 2023 to the time of the request to be delivered via courier on junk drives. [[288]](#footnote-288)
214. The Parents have been given the opportunity to come in and inspect and review the Student’s educational record. [[289]](#footnote-289)
215. The school division never notified the Parent that the records had been moved to Xxxxxxxxxxx. The Parent found out when she tried to obtain a transcript for the Student.[[290]](#footnote-290)
216. Xxxxx Xxxxxxxxxxx is the Student’s new case manager. According to the Parent, the Parent did not find out the Student has a new case manager (Ms. Xxxxxxxxxxx) until the first day of this hearing and never knew that the case manager is supposed to introduce herself/himself to the family.[[291]](#footnote-291)
217. When a student is not enrolled, the case manager reaches out at the beginning of the school year to make introductions. Case managers monitor the IEP, write the IEP setup and monitor goals, send out progress reports throughout the year. [[292]](#footnote-292)
218. The Parent believed Xxxx Xxxxxxxxx to be the Student’s case manager. However, Xxxx Xxxxxxxxx is the coordinator of special education and oversees the Special Education Department. She works with special education teachers as far as setting up meetings, sitting in IEP meetings with teachers and parents. She serves as liaison between the school and the central office Special Education Division.[[293]](#footnote-293)
219. Xxxxx Xxxxxxxxxxx was assigned to the Student as case manager in August 2022. Prior to that time, Xxxxxxxxxxxx was the Student’s case manager. She also worked with the Student during the 5 days he attended summer school.[[294]](#footnote-294)
220. Ms. Xxxxxxxxxxxu is responsible for the student in the building, she makes sure that whatever is written in the IEP, the goals, the accommodations, are met throughout the school day. In this specific case, she is also one of the special education teachers in the classroom for XX schedule. The Student would see her frequently, “kind of like mom at school.”[[295]](#footnote-295)
221. According to the Parent, despite the fact that the LEA knew the Student was going to transition back to public school, nobody from the Special Education Department, not the case manager nor an administrator, reached out to the Parent to set up a transition plan for the Student to leave Xxxxxxxxxxxxxxx and transition to public school. [[296]](#footnote-296) The Parent asked the transition coordinator, but he never provided anything.
222. Parent feels she has been operating as a case manager, because no one from special education reached out to her with any type of transition plan from private day school to public school, nor any transition plan long term for the Student to go to high school.[[297]](#footnote-297)
223. Ms. Xxxxxxxx served different roles in the IEP meetings. At the August 10, 2023, meeting she served as the LEA representative.
224. Xxxx Xxxxxxxxx served as LEA representative for the subsequent meetings after the Student was assigned to Xxxxxxxxxxxxx. At the August 10, 2023, IEP meeting there were representatives from Xxxxxxxxxxxxxxxxxxxx School, Xxxxxxxxxxxxxxxxx School, and Academy 360. [[298]](#footnote-298)
225. The Parent does not want Ms. Xxxxxxxx involved in the IEP meetings. In the October 2023 IEP meeting, the Parent questioned why Ms. Xxxxxxxx was there. The Parent raised concerns about the roles of individuals on the Student’s IEP Team. Ms. Xxxxxxxx has never met the Student and the Parent believes that Dr. Xxxxxxxx does not have a legitimate educational interest in the Student.[[299]](#footnote-299)
226. Mr. Xxxxxxxxx, the Principal of Xxxxxxxxxxxxxxxxxxxx School believes that Dr. Xxxxxxxx was invited because it is not unusual for Central Office staff to join IEP meetings, when the IEP meetings have been drawn out for long periods of time or have complicated issues.[[300]](#footnote-300) Central Office staff is familiar with resources that might be available in the school division.[[301]](#footnote-301)
227. Xxxxxxxxxxxx is a personal trainer and a mental health advocate for adolescents, mostly ages 14 to 18, dealing with trauma and anxiety.[[302]](#footnote-302)
228. Ms. Xxxxx brings in all the IEP meetings she attends the Critical Decision Points for Families with Children with Disabilities and the Regulations governing special education effective January 25, 2010.
229. Ms. Xxxxx has sat as an observer and as a support person for the Parent in three IEP meetings during the 2022-2023 and 2023-2024 school year.[[303]](#footnote-303)
230. Ms. Xxxxx observed the Parent being cut off constantly during the IEP meetings and staff becoming hostile. She observed the staff disregarding her statements. [[304]](#footnote-304) Specifically, she observed Ms. Xxxxxxxx interrupt the Parent on numerous occasions. She observed Ms. Xxxxxxxx be the only person to speak for the school division in the meeting, shut down the Parent’s comment, speak over the Parent and push to move forward representing the whole team. She observed the Parent being frustrated because she was not being heard.[[305]](#footnote-305)
231. In one IEP meeting, she observed Ms. Xxxxxxxx having a tantrum and abruptly ending the meeting after the Parent asked her to leave.[[306]](#footnote-306) The Parent was expressing her frustration, she was upset and raised her voice. The Parent made accusations against the staff because they are in the habit of abusing children.[[307]](#footnote-307)
232. Ms. Xxxxx has had IEP meetings with Ms. Xxxxxxxx for her own child. Ms. Xxxxxxxx has abruptly ended some of those meetings with her too. In one instance, after 5 minutes of the meeting starting, she threatened her to have an officer remove her from the building. Then the principal of the school arrived, asked why Ms. Xxxxxxxx was even there. Ms. Xxxxx stated that people from the central office create a hostile environment in IEP meetings.[[308]](#footnote-308)
233. Ms. Xxxxx stated that Ms. Xxxxxxxx
234. was a barrier to the progress of the Student’s IEP while the Parent has made every effort to collaborate with the school division. [[309]](#footnote-309)
235. Over the course of these 4 meetings, Ms. Xxxxxxxxx did not observe Ms. Xxxxxxxx preventing the Parent from speaking or voice her concerns.[[310]](#footnote-310)
236. The Parent told the school division they falsified records numerous times in the IEP meetings.[[311]](#footnote-311) But she does not recall the school referring the parent to filing a complaint through the 4100. [[312]](#footnote-312)
237. When the Parent would ask a specific question of specific participants, there were times when Ms. Xxxxxxxx would respond instead of that staff. This was a frequent occurrence.[[313]](#footnote-313)
238. One of the meeting norms was to let one person speak at a time, but Ms. Xxxxxxxx constantly violated that norm.[[314]](#footnote-314)
239. In one of the meetings, Ms. Xxxxxxxx came with the IEP already written in pdf format hardcopy. She did not allow the Parent to go onto the Virginia IEP system to provide her input directly to the IEP. When other members of the team asked to project Virginia IEP so that they could see all the prompts she responded “We are not required to”. At the same time, Ms. Xxxxx testified that the IEP draft is written by the school division prior to the meeting and uses the draft to direct the meeting. She also testified that she never appeared in person and was not aware if any of the drafts were noted as drafts with notations of draft written on them.[[315]](#footnote-315)
240. Ms. Xxxxxxxx was leading the August 10, 2023 meeting because the Student did not have a school assigned at that time.[[316]](#footnote-316)
241. The Parent had multiple requests including compensatory services, a computer for the Student. The Parent was asking for specific technology, but at this time it is difficult to assess because when the Student attended summer school he was successful with what was provided.[[317]](#footnote-317)
242. The Parent in the August 28, 2023 IEP meeting, stood up in the meeting, leaned towards Ms. Xxxxxxxx, pointed the her finger at her and told her she was fired.[[318]](#footnote-318)
243. Dr. Xxxxxxx reviewed two IEP tapes from the October 14, 2023 and September 28, 2023. In the October 24, 2023 meeting the Parent was present. Mr. Xxxxx was present in support of the Parent. For the first 45 minutes to about an hour, the entire team was working together. There were disagreements, but they were respectful. The Parent started the meeting by saying that there were time limits and time check throughout and that she wanted to ensure everyone was being heard.[[319]](#footnote-319) Both the Parents and Ms. Xxxxx were given the opportunity to speak. At one point Ms. Xxxxxxxx said that Ms. Xxxxx looked like wanted to say something. Ms. Xxxxx raised a point respectfully disagreeing with Ms. Xxxxxxxx and Ms. Xxxxxxxx said “that’s a valid point.”
244. The September 28, 2023 meeting was more chaotic. The Parent did a good job of bringing people back on track.[[320]](#footnote-320) Multiple people spoke at the meeting, including those who the Parent had brought to the meeting, that is Mr. Xxxxxxxx and Ms. Xxxxxxxxxx.[[321]](#footnote-321) There was never a point when Ms. Xxxxxxxx stopped the Parent from participating or communicating.[[322]](#footnote-322)
245. When the Parent tried to ask questions to Ms. Xxxxxxxxxxx during IEP meetings, she was not allowed to speak because Ms. Xxxxxxxx and the facilitator said that she did not have to answer. [[323]](#footnote-323)
246. Xxxxxxxxxxxx never called her and when she had questions about transportation being canceled, she was informed that staff was advised not to communicate with the Parent, to not talk to her, or write back to emails[[324]](#footnote-324)
247. The tone of the September 28, 2023 was “tense”[[325]](#footnote-325) the Parent was not happy with the elements of the IEP. She did not recall Ms. Xxxxxxxx yelling or engaging in any behavior that cut off the Parent when she tried to speak.[[326]](#footnote-326)
248. The Parent in the September 28, 2023 meeting was loud and abusive. As members of the IEP team would make suggestions and comments in order to meet the Parent’s expectations, they would be cut off, they were not allowed to finish, she would yell over top of them before they had a chance to even fully articulate their ideas to amend the IEP and make changes to it.[[327]](#footnote-327)
249. In the September 28, 2023 meeting, at one point the Parent polled the members of the Team as it related to whether they agreed or disagreed with the Parent’s proposal. [[328]](#footnote-328)
250. The LEA currently uses Xxxxxxxxx for IEPs. Ms. Xxxxxxxx does not recall the Parent asking records for Virginia IEP. [[329]](#footnote-329)
251. The Parent was given a draft IEP. [[330]](#footnote-330) Drafts are often changed during IEP meetings. The draft is given to the Parent, 48 hours in advance, and when the team meets they discuss the parent’s concerns.[[331]](#footnote-331)
252. The Parent would write and send back notes, sometimes ahead of the meeting, sometimes at the meeting. In every instance, Ms. Xxxxxxxxx would make copies of the Parent’s notes and distribute them to the team.[[332]](#footnote-332)
253. During the IPS meetings in the Fall of 2022, the IEP Team considered Extended School Day.[[333]](#footnote-333) They talked about support on the school bus. The team discussed least-restrictive environment. The team considered ESY, but the Team did not feel, as of October 2022, that they had the data to determine if he needed ESY. Length of day refers to a student who may need for a short period of time to have their day shortened, but it could be made longer too.[[334]](#footnote-334)
254. The IEP Team considered the Parent’s input both verbal and documented, which were included in the Prior Written Notices.[[335]](#footnote-335)
255. In the August 10, 2023, August 3, 2023, September 28, 2023, and October 16, 2023 meetings, three of which were facilitated, the Parent was very vocal.[[336]](#footnote-336)
256. In-home support has been offered through FAPT, but the Parent has not agreed to it.[[337]](#footnote-337)
257. The Student was not attending school at the start of the school year 2023-2024, the Team had a meeting on August 10, 2023, and by the August 30, 2023 meeting the Student had not attended school. Therefore the IEP meetings that occurred in August, September, and October of 2023 were all focused on getting the Student back to school.
258. During the September 28, 2023 the facilitator met with the Parent and with Ms. Xxxxxxxx and asked “can you just do whatever you can to get xxxx into school? That would resolve all issues.” The Team proposed an Amendment just to get xxxx into school, but the Team was not able to reach consensus.[[338]](#footnote-338)
259. The last IEP Amendment that has been consented to is from June 2023.[[339]](#footnote-339)
260. In the August 30, 2023 meeting, the Team floated the idea of setting up a Google Meet where the Student could meet with some of the school staff so that the Student could see a familiar face once on the bus.[[340]](#footnote-340) The Parent did not believe that it would work for the Student because he does not “do that stuff” and therefore it is not appropriate for the Student[[341]](#footnote-341)
261. The team also floated the idea of having the Student come in not necessarily for academics at first, but just having a chance to get into the building.[[342]](#footnote-342)
262. The Team floated the idea of giving xxxx opportunities to play the guitar: Ms. Xxxxxxxx suggested that the Parent could bring one of XX guitars that Ms. Xxxxxxxx would then drive to Xxxxxxxxxxxxx so that xx could have something there that xx was looking forward to doing. [[343]](#footnote-343)
263. The Team decided that to try to find out a motivation for the Student to come to school, xx would be able to use XX first block of the day to go play the guitar to some of the other students in the self-contained classrooms.[[344]](#footnote-344) More specifically, it was proposed that the Student’s schedule be designed to incentivize xxxx to attend school; at the beginning of the day xx would start with a flex block, that is 30 minutes where xx would be able to play guitar, then xx would finish the day with guitar, as one of XX electives. Also, because xx passed some of XX xxxx grade SOLs, they thought of giving xxxx another elective instead of having xxxx sit through that same course again.[[345]](#footnote-345)
264. The Parent did not want xxxx to bring XX own guitar, so the Team reached out to the guitar teacher. They would provide a guitar we can have in the classroom available to xxxx.[[346]](#footnote-346)
265. In the beginning the Parent was in support of this idea. The guitar idea was discussed in the course of several meetings, but it is was during the September 28, 2023 that the Team went in depth of what other strategies could be used to get xxxx in the building.[[347]](#footnote-347)
266. Another strategy proposed was to bring the Student into the building either before or after school to meet with the adults in the building.[[348]](#footnote-348) The Parent was interested in these ideas.[[349]](#footnote-349)
267. The school proposed also that he meet in the same way with some of XX classroom teachers[[350]](#footnote-350), and handcrafted a schedule to make sure that the teachers, including one of the teachers xx worked with during the summer, as well as XX special education teacher, being familiar faces, along with the bus aides.[[351]](#footnote-351)
268. Home bound instruction was mentioned as well. The idea was to give xxxx exposure to the curriculum while xx was working to get to school, so that xx would have that exposure to the classes and build that relationship with the teachers as well.[[352]](#footnote-352)
269. The Student was invited to attend the meetings and Ms. Xxxxxxxxx had reached out to the Parent to offer transportation for xxxx to give input.[[353]](#footnote-353)
270. The school proposed to provide staff consultation to address the Student’s behavior, but the Parent stated it was inappropriate because it did not need an IEP amendment.[[354]](#footnote-354)
271. The school proposed to allow the Student to play guitar once xx got into school in order to address XX school refusal issue; But the Parent does not believe that this will get the Student to school. [[355]](#footnote-355)
272. On September 1, 2023[[356]](#footnote-356), the school division offered or proposed an amendment that changed only XX placement and XX services to public day school.[[357]](#footnote-357) Parent did not sign because the document in her opinion contained a libel statement that the Student will repeat xxxx grade at the Parent’s request.[[358]](#footnote-358)
273. The Parent did not sign the September 1, 2023 amendment and did not write in a note disagreeing with the reasoning because she did not want to repeat what had happened with the partial consent issue from the prior year, so she just did not consent to it.[[359]](#footnote-359)
274. The Parent was asking for somebody to come into the home to get xxxx out of the house and to get xxxx into the bus.[[360]](#footnote-360)
275. According to Ms. Xxxxxxxxx, the school is responsible for the Student from the moment the student steps onto the bus until the minute xx gets off the bus at the end of the day.[[361]](#footnote-361)
276. The June 2, 2022 IEP was developed over the course of two meetings, May 28, 2022 and June 2, 2022. Ms. Xxxxxxxxx was not present the entire time of these two meetings.[[362]](#footnote-362)
277. The Parent has always provided extensive amount of information regarding the Student, medical information, daily emails of concerns, and letting us know how xx did when in private day school, providing work samples. [[363]](#footnote-363)
278. The Parent worked with a staff member to make sure her input was taken into account for the Present Level of Academic Performance for the June 2, 2022 meeting. The meetings were long, one of them being almost 5 hours. The Parent worked separately with Ms. Xxxxx to conclude some other information.[[364]](#footnote-364) A representative of Xxxxxxxxxxxxxxx was present.[[365]](#footnote-365)
279. In the discharge summary[[366]](#footnote-366)Xxxxxxxxxxxxxxx indicated that there were no behavior concerns.
280. A BCBA typically addresses behaviors like aggression. At this time of the IEP, the Student was not presenting any physical danger to xxxxself or others in the form of eloping. In Ms. Xxxxxxxxx’s opinion the Student at that point in time, based on the Xxxxxxxxxxxxxxx discharge summary, did not need a BCBA.[[367]](#footnote-367)
281. October 14, 2022 meeting[[368]](#footnote-368), the Parent brought up the issue of orthotics for the Student and wanted to know what type of accommodations could be done for physical education. They proposed that for PE xx would still be able to participate with this latest medical development.[[369]](#footnote-369)
282. The Team decided to reconvene on December 15, 2022, but the Parent did not participate. Despite this the team considered the Parent’s concerns that she had had from the previous IEP that she wrote on. The Team went over the Present Level of Performance. The Parent would send daily emails including a full report of her concerns, which were printed out and distributed to the entire team.[[370]](#footnote-370)
283. A PWN[[371]](#footnote-371) outlines the proposals and refusals from the December 15, 2022 meeting. The school wanted to implement the IEP with instructions in the special education setting in support for social and emotional needs and transition services.
284. The Team was proposing to provide accommodations to support the Student with making progress in the general educational curriculum. They were also proposing services in the autism day program.[[372]](#footnote-372)
285. The Autism Day Program was proposed as an appropriate way to transition the Student back into school setting because it was going to be a smaller setting for xxxx.[[373]](#footnote-373)
286. The Team refused compensatory services because the Student had been provided access to education.[[374]](#footnote-374) The school was ready and willing to welcome the Student back into the public school, but in order to change the Student’s placement the school needs written parental consent [[375]](#footnote-375)
287. The Team reconvened on February 7, 2023. The Team proposed the implementation of the December 15, 2022 IEP, but the parent did not agree. The Parent did not agree to the Autism Day Program.[[376]](#footnote-376)
288. The School Psychologist agreed that the autism day program was an appropriate placement to help xxxx transition back. The psychologist was the one who observed xxxx when xx was at Xxxxxxxxxxxxxxx when she was doing the psychological evaluation.[[377]](#footnote-377)
289. While the Parent did not agree to ADP, all other licensed special educators on the Team agreed that placement was appropriate to provide FAPE.[[378]](#footnote-378)
290. During the June 14, 2023 resolution session, the LEA proposed another IEP amendment.[[379]](#footnote-379) This was part of a division initiated due process. The Student was to be placed in Public Day School, and the LEA proposed for summer school instruction. Transportation was provided to the Student to get xxxx to summer school.[[380]](#footnote-380)
291. The IEP Amendment that resulted from the June 14, 2023 resolution session was reasonably calculated to ensure the Student made progress in light of XX unique circumstances.[[381]](#footnote-381)
292. The IEP proposed on October 16, 2023[[382]](#footnote-382) addressed all the strategies to address the school refusal issues.
293. Ms. Xxxxxxxxx and Ms. Xxxxxxxx rejected the idea of a QMHP. Ms. Xxxxxxxxx did not research what a QMHP is or does.[[383]](#footnote-383) Ms. Xxxxxxxxx believes that she understands the needs of the Student.[[384]](#footnote-384) She met the Student virtually a few years ago [[385]](#footnote-385) and she converses quite frequently with the Parent through e-mail and phone conversations, she knows xxxx in the light of the Parent.[[386]](#footnote-386)
294. The school did not exhaust Tier 1, Tier 2, and Tier 3 interventions. The school attempted directly something different to address school refusal. [[387]](#footnote-387)
295. Students who do not do well on their SOL can have tutoring provided for free virtually. This is the ALL IN initiative.[[388]](#footnote-388) The Parent asked Mr. Xxxxxxxxx why the Student was not offered this service.[[389]](#footnote-389) Ms. Xxxxxxxxx stated that Mr. Xxxxxxx said that he was not offered those services because he did not take the SOL that year, but that he still offered those services to the Parent.[[390]](#footnote-390)
296. Tutoring was not offered as a related service as part of the ALL IN, it never went beyond the interaction between the Parent and Mr. Xxxxxxxxx.[[391]](#footnote-391)
297. The Student has school refusal as a barrier to attending school. The function of that behavior is trauma with going to school; xx does not want to be in xxxx grade with XX XXXXx brother. The interventions proposed in the September 28 meeting were intended to make the school a comfortable setting, by giving that rapport with the teachers and having the elective first thing in the morning so that xx would not feel trauma of walking in the building, but feel supported by the aides on the bus or by the teacher xx had over summer school, who is still going to be XX teacher or XX case manager. And then again at the end of the day.[[392]](#footnote-392)
298. Ms. Xxxxxxxxxxx did the Woodcock-Johnson test; they had a student interview, sat down and talked about the Student’s interests.[[393]](#footnote-393) The Parent was provided with a report which states all of the scores, strengths and weaknesses.[[394]](#footnote-394) The Parent requested the testing protocol, but Ms. Xxxxxxxxx withheld it explaining her concerns about copyright law.[[395]](#footnote-395)
299. Ms. Xxxxxxxxx did not do a FBA. The Student had demonstrated patterns of school refusal for a year. However, the Student had not been in the building, they were not able to observe, to see the action, so there was no data to go off of. [[396]](#footnote-396)
300. Ms. Xxxxxxxxx has only done FBAs for students that have been in the building.[[397]](#footnote-397) Social workers address school refusal. [[398]](#footnote-398)
301. The only time a social worker attended the IEP meeting was on October 16, but she did not give any information, made no statements, provided no resources for the Parent.[[399]](#footnote-399)
302. Ms. Xxxxxxxxx and Dr. Xxxxxxxx wrote the PWN. The Parent was not included in the PWN development.[[400]](#footnote-400) They listened to the audio recording and reviewed their notes.[[401]](#footnote-401)
303. XXPS refuses to provide adult assistance in the student’s home. The Parent wanted someone to come in to the home to get the Student out of the home to the bus.[[402]](#footnote-402)
304. The Parent never provided any documentation from a doctor or another mental health provider to demonstrate that the Student needed a QMHP.[[403]](#footnote-403)
305. Ms. Xxxxxxxxx is not providing trauma informed strategies directly to the student.[[404]](#footnote-404) She stated that she is providing trauma informed strategies by talking to the Parent.[[405]](#footnote-405)
306. The 2021 IEP stated that the Student required a BIP in order to access FAPE, but that BIP was never created.[[406]](#footnote-406)
307. At the September 28, 2023 meeting it was proposed that the Student could come to school or meet via Google Meet. But the Parent made it very clear xx would not leave the house.
308. Social School workers make home visits.[[407]](#footnote-407)
309. Playing the guitar, watching YouTube videos on the bus, those are not technically tier 1 interventions, rather behavior reward system.[[408]](#footnote-408)
310. The strategies included in the IEP were based on direct input from the Parent.[[409]](#footnote-409)
311. The school did not become aware of school refusal issues until the summer, [[410]](#footnote-410) so it would not have been possible to put in a transition plan to work through those issues prior to the summer.[[411]](#footnote-411)
312. An FBA is conducted to see if a BIP is appropriate. The FBA should be conducted in the setting where the BIP is going to be implemented. It is not appropriate to conduct an FBA in the home if you are going to implement a BIP in the school setting.[[412]](#footnote-412)
313. If the behavior occurs in the home, the FBA needs to be conducted in the home, which is what Ms. Xxxxxxxx offered to do, as part of the wraparound services that XXPS had coordinated.[[413]](#footnote-413)
314. After summer school, Ms. Xxxxxxxx was invited to attend IEP meetings as the general education teacher. She participated in three meetings (August 30, 2023, September 28, 2023, and October 16, 2023).[[414]](#footnote-414) There was not a lot of discussion regarding direct classroom instruction[[415]](#footnote-415). It was centered on hygiene and transportation.[[416]](#footnote-416)
315. Ms. Xxxxxxxx reviewed the Student’s MAP (measurement of academic progress) scores. It is test given in math and reading. It creates a scale in terms of a percentile; it is also given as a test to compare data over to points in time to the school year, two or more points in time.[[417]](#footnote-417)
316. The Student’s September 21 reading MAP score was 224[[418]](#footnote-418) which placed xxxx in the 46th percentile. XX was reading at xxxx grade level.[[419]](#footnote-419)
317. The Student took only 15 minutes to complete the assessment. So you would expect a low score. XX scored at 200 which is low, but quite high for having done it in only 15 minutes.[[420]](#footnote-420) The test normally takes 45 minutes to one hour. This is indicative of reading at xxxx grade level.[[421]](#footnote-421)
318. The next test, it took xxxx 41 minutes.[[422]](#footnote-422)XX demonstrated on grade level ability.[[423]](#footnote-423)
319. Ms. Xxxxxxxx reviewed the Student’s reading SOL score: 426. This demonstrates that xx has achieved mastery at the xxxx grade level. Also the goals listed in the Xxxxxxxxxxxxxxx IEP progress report[[424]](#footnote-424) are acceptable goals at the xxxx grade level for written language.[[425]](#footnote-425)
320. There is a strong correlation between the MAP test and potential of being successful on the SOL scores, and the correlation was in the 80 to 90th percent.[[426]](#footnote-426)
321. Ms. Xxxxxxxx is ready to welcome the Student in her classroom, get xxxx acclimated to classroom routines, establish a peer system, introduce xxxx to the other student and to work with xxxx.[[427]](#footnote-427) However, she does not know if XX will have an aide, does not know who will be dealing with XX hygiene issues in the classroom.[[428]](#footnote-428)
322. In preparation of the June 2, 2022 IEP meeting, there were some preplanning meetings with the Parent, xxxx xxxxxx, the coordinator of disability support services and she also works in the Department of Special Education, and Dr. Xxxxxx, the chief academic officer. The meetings took place over the course of 2 days.[[429]](#footnote-429) The purpose of those meetings was to get the Parent’s input on the development of the draft of the IEP.[[430]](#footnote-430)
323. At the time, the issues for the Parent were the type of aide that would be assigned to the Student, and XX matriculation to the next grade level which would have been xxxx grade.[[431]](#footnote-431)
324. The Parent wanted the Student to be retained in xxxxxxxx grade[[432]](#footnote-432) because she felt he did not receive a grade level work at Xxxxxxxxxxxxxxx.[[433]](#footnote-433) In support of her contention she had at least two work samples that Dr. Xxxxxxx’s remember seeing.[[434]](#footnote-434)
325. The team met on June 2, 2022 and there was an IEP proposed, but the Parent did not consent to it.
326. The IEP team reconvened on August 19, 2022 and proposed an IEP.[[435]](#footnote-435) [[436]](#footnote-436)
327. On August 22, 2022, Dr. Xxxxxxx had a conversation with the Parent and reiterated that they just wanted the Student to come to school[[437]](#footnote-437) The Parent sent back the documents with hand written notes.
328. XXPS sent the Parent a clean IEP[[438]](#footnote-438) trying to accomplish the most basic of matters, which was XX placement, public day school, and then get back to the table and hash out all of those other issues that were before them.[[439]](#footnote-439) The Parent did not consent to it.
329. The Parent was offered mediation[[440]](#footnote-440). She first accepted the offer to enter mediation, but she never attended.[[441]](#footnote-441)
330. During this time, the Student’s annual IEP was coming up for annual review and development. The school contacted the Parent advising that they needed to reconvene to develop the annual IEP and offered three dates.[[442]](#footnote-442) Mr. Xxxxxxx also advised that if they heard nothing and she did not accept any of these other dates, the team would reconvene on December 15, 2022.[[443]](#footnote-443)
331. ADP was proposed by the team because the Student had been out of school for so long that he would benefit from a smaller environment to get acclimated back to school.[[444]](#footnote-444)
332. Mr. Xxxxxxx wrote a letter on March 8, 2023[[445]](#footnote-445) summarizing the status of the IEP meetings and giving the parent guidance, in addition to another offer of mediation, but the parent rejected mediation.[[446]](#footnote-446)
333. On April 25, 2023, Dr. Xxxxxxx wrote a letter to the Parent [[447]](#footnote-447) addressing multiple communications from the Parent stating, summarizing, that the Student had not received access and Dr. Xxxxxxx reminded the Parent about the options that were offered and continued to be offered to get the Student back into school.[[448]](#footnote-448)
334. In the same letter[[449]](#footnote-449), Dr. Xxxxxxx advised the Parent about the process called Working through the School Board Policy 4100 because the Parent had asserted that there were inaccuracies in the Student’s educational record.[[450]](#footnote-450)
335. The LEA initiated a Due Process Hearing in Spring 2023. During the pendency of that proceeding, the Parent and the school were able to develop an IEP amendment.[[451]](#footnote-451)
336. On May 12, 2023 the school initiated Due Process.[[452]](#footnote-452) The school wanted that the Hearing Officer determine that the last proposed IEP dated December 12, 2022 was reasonably calculated to provide FAPE and override the Parent’s refusal to provide consent to implement the last proposed IEP of December 15, 2023.[[453]](#footnote-453) And to deliver services in the public school setting as the least restrictive environment.[[454]](#footnote-454)
337. During the resolution session, the Parties did not reach an agreement, but the school proposed an Amendment to return the Student to school in the summer school education program.[[455]](#footnote-455) The Parent consented to this Amendment[[456]](#footnote-456)
338. In the development of the October 16, 2022, IEP, homebound was offered; partial day start was offered, but ultimately a comprehensive education in the public school general education setting was proposed that offered behavior support and ADL support, and social worker and school counselor. This IEP was reasonably calculated to enable the Student to make progress in light of his unique circumstances.[[457]](#footnote-457)
339. The August 19, 2022, IEP was reasonably calculated to provide FAPE.[[458]](#footnote-458)
340. The December 15, 2022, IEP was reasonably calculated to provide FAPE.
341. The June 2, 2022, IEP was reasonably calculated to provide FAPE.
342. All Prior Written Notices during the relevant timeframe of this proceeding were delivery timely to the Parent and adequately described the proposals and refusals.
343. Henry Millward, Jr. is the Director of Special Education Family Support and Special Facilities at the Virginia Department of Education in the Department of Student Population. His primary role is to work with families that have concerns with their LEAs regarding the special education process, provide them with technical assistance in working through dispute resolution process. [[459]](#footnote-459)
344. The Parent has reached out to Mr. Millward many times “too many to count” since the 2022-2023 school year begging for help to get the Student in school.[[460]](#footnote-460)
345. The Parent reached out to Mr. Grabowski who is the ombudsmen at VDOE, Samantha Hollins, Dr. Haymes, and to the Secretary of Education, and the Lieutenant Governor.[[461]](#footnote-461)
346. Even under appeal, the school division must continue with the corrective action as stated in the complaint procedures and regulations.[[462]](#footnote-462) The plan should have been implemented within 30 days.[[463]](#footnote-463)
347. After the letter of findings, there have been a number of letters requesting to reconvene an IEP meeting. There has been a proposed amendment that the Parent did not agree to.[[464]](#footnote-464)

## CONCLUSIONS OF LAW AND DISCUSSION

 Based upon the above Findings of Fact, the arguments of counsel and advocate, as well as this Hearing Officer’s own legal research, the Conclusions of Law of this Hearing Officer are as follows:

1. The LEA is the prevailing party.
2. The Parent failed to introduce evidence to carry the burden of proof and persuasion to grant the relief requested by the Due Process Request.

## Burden of Proof

In this administrative due process proceeding initiated by the Petitioner, the burden of proof and burden of persuasion is on the Petitioner. *Schaffer, ex rel. Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528 (2005). The standard of proof shall be met by a preponderance of the evidence, pursuant to 8VAC20-81.O.13. See. e.g., *Cty. Sch. Bd. of Henrico Cty., Va. v. R.T*., 433 F. Supp. 2d 657, 671 (E.D. Va. 2006) (Hearing Officer’s factual conclusions supported by the preponderance of the record evidence.)

## Analysis

## In this proceeding, all issues pertain and are limited to school years 2022-2023 and 2023-2024

**Issue A** **Whether the LEA denied the student a FAPE when it failed to provide a timely draft of the IEP prior to IEP Meetings as well as when it denied the Parent meaningful participation in the creation of the draft.**

This Hearing Officer granted the LEA’s Motion to strike this issue based on the Parent’s testimony that it is the school division’s responsibility to create a draft for the parent’s review, and that there is no law or regulation that gives the parent the right to participate in the creation of an IEP draft.

**ISSUE A(a)** **Whether the LEA denied the student a FAPE when it failed to allow the Parent and the Parent’s representatives (legal and educational) to meaningfully engage in the IEP team and process**.

The Parent did not meet the burden of proof and persuasion to show that the LEA did not allow the Parent and the Parent’s representatives (legal and educational) to meaningfully engage in the IEP Team and process.

It is undisputed that parents play a key role in the IEP development. Pursuant to 34CFR §300.321(a)(1) Parents of the child are listed as number one amongst the required IEP Team members. In *R.L. v. Miami-Date County Sch. Bd,* 757 F. 3d 1173, 63 IDELR 182 (11th Cir. 2014), the Court stated, citing *Deal v. Hamilton County Bd. of Educ* ,392 F.3d at 858, that Parental “[p]articipation must be more than a mere form; it must be meaningful.” The IEP Team must consider the parents’ input and incorporate them into the IEP. However, this does not mean that the school districts must bend to parents’ requests. Under *Blackmon v. Springfield R-XII School Dist*, 198 F.3d 648, 31 IDELR 132 (xxxx Cir. 1999) school districts are not required to simply accede to parents' demands without considering any suitable alternatives. Decisions made by the Team are by consensus and not subject to vote. If the Team does not reach consensus, the school district ultimately must determine the appropriate services and provide the parent with prior written notice if the parents’ request is denied.

 In the case of the Student, ample testimony was provided about the Parent being very involved before, during, and after the IEP meetings. The Parent alleges that she has never been made to feel like she is an equal IEP Team member and that she has been bullied by Central Office staff, namely Xxxxxxxxxxxxxxx, a specialist in the Department of Special Education, who started to attend the Student’s IEP meetings in the Fall of 2022. The Parties had multiple witnesses testify as to the various interactions between the Parent and Ms. Xxxxxxxx. On one hand, there is the testimony of the Parent who testified that she feels bullied by Ms. Xxxxxxxx, who has been dismissive toward her. There is the testimony of Ms. Xxxxx, a person who came to some of the meetings to support the Parent, in which Ms. Xxxxxxxx is described as interrupting the Parent, shutting her down, speaking over her, pushing to move forward as if she were speaking for the entire Team, having a tantrum abruptly ending the meeting after the Parent asked her to leave. There was also the testimony of Mr. Xxxxxxxxx, the Principal of Xxxxxxxxxxxxxxxxxxxx School, who testified that he has a good rapport with the Parent and has never had to hang up on the Parent, never called the police on her, have never excluded her from any meetings. On the other hand, there is testimony from Ms. Xxxxxxxx, the general education teacher (English), who testified that the tone of the September 28, 2023 IEP meeting was “tense” as the Parent was not happy with the elements of the IEP; She did not recall Ms. Xxxxxxxx yelling or engaging in any behavior that cut off the Parent when she tried to speak; instead, she recalled the Parent being loud and abusive: as members of the IEP team would make suggestions and comments in order to meet the Parent’s expectations, they would be cut off by the Parent, they were not allowed to finish, the Parent would yell over top of them before they had a chance to even fully articulate their ideas to amend the IEP and make changes to it. There is the testimony of Ms. Xxxxxxxx describing an incident where the Parent stood up in the meeting, leaned towards her, pointed her finger at her and told her she was “fired”. There is the testimony of the Parent herself who did not deny that during the September 28, 2023 IEP meeting, that leads me to believe that it is more likely than not that she stated that she is good at writing state complaints and that the IEP school-member’s licenses and XXPS funding were on the line. To mitigate the descriptions of these heated interactions between the Parent and Ms. Xxxxxxxx, there is Dr. Xxxxxxx’s testimony. She is the Director of Special Education for the LEA, who testified that, after reviewing two IEP tapes from the October 14, 2023 and September 28, 2023 meetings, for the first 45 minutes of the October 14, 2023 to about an hour, the entire team was working together, there were disagreements, but they were respectful, that the Parent and Ms. Xxxxx were given the opportunity to speak, and that one point Ms. Xxxxxxxx said that Ms. Xxxxx looked like wanted to say something. Ms. Xxxxx raised a point respectfully disagreeing with Ms. Xxxxxxxx and Ms. Xxxxxxxx said “that’s a valid point.” Dr. Xxxxxxx also described the prior meeting that took place on September 28, 2023 as more “chaotic”, but at the same time she praised the Parent for doing a good job of bringing people back on track. She stated that multiple people spoke at the meeting, including those whom the Parent had invited, that is Mr. Xxxxxxxx and Ms. Xxxxxxxxxx, and that there was never a point when Ms. Xxxxxxxx stopped the Parent from participating or communicating.

With this said, meaningful parent participation is not only about the tone and the atmosphere during, before, or after the IEP meetings, it is also about the ability of the parent to bring ideas, data, requests, and information to the table for the Team to consider, and for the Team to actually consider it. The Parent repeatedly testified that she feels that her voice does not matter or is not being heard in IEP meetings. She stated that “all they want to do is just deny everything the kid needs.” The testimony of other members of the Team, however, shows the opposite is true.

There is no dispute as to the amount of communication by the Parent to members of the IEP Team and Central Office staff, including information relating to the requests of the Parent. For months, the Parent sent daily emails to the school regarding the Student’s mental health. Those emails were then printed out and distributed to the Team to discuss during the meetings. The Parent shared with the Team that the Student has a passion for playing guitar. Once the Team became aware of school refusal issues on the part of the Student, the Team considered the information and offered several strategies to incorporate the Student’s love of music to entice the Student back into the school building. When the Parent expressed concerns about bringing the Student’s guitar to school, the Team reached out to the guitar teacher who committed to providing a guitar for the Student. Ms. Xxxxxxxxx testified that the Parent always provided extensive amount of information regarding the Student, medical information, daily emails of concerns, work samples, and let the Team know how XX did when XX was in private day school. Ms. Xxxxxxxxx testified that the Parent worked with a staff member to make sure her input was taken into account. She described, for example, the Present Level of Academic Achievement and Functional Performance for the June 2, 2022 meeting; she described the meetings being very long, one of them being almost 5 hours long. The Parent worked separately with Ms. xxxxxx who then attended the meeting. Ms. Xxxxxxxxx testified that the information provided by the Parent was considered even when the Parent did not attend the December 15, 2022 meeting. In that instance, the Team considered the Parent’s concerns from the previous IEP, on which the Parent made hand-written notes, and her daily emails which were printed out and distributed to the entire Team to discuss.

Another example is the participation of Mr. Xxxxxxxx, the Student’s CSB services coordinator. He attended several IEP meetings at the request of the Parent and his input was considered and well received. Specifically, he offered to conduct a basic Functional Behavioral Assessment (FBA) to address interfering behavior as it relates to school refusal.

The evidence shows that the Team made decisions or attempted to make decisions by reaching consensus. The decisions are not subject to a vote. On this very topic, the evidence shows that the Parent, who has participated in a multitude of IEP meetings throughout the years, and who is well versed on the concept of consensus, does not adhere to this core principle of the development of an IEP. Ms. Xxxxxxxx testified that in the September 28, 2023 IEP meeting, the Parent went around the table polling each and every member of the IEP Team as it related to whether they agreed or disagreed on her proposals.

If the Team does not reach consensus, the school district ultimately must determine the appropriate services and provide the parent with prior written notice if the parents’ request is denied. If the team develops an IEP or an IEP amendment that the Parent does not agree with, it does not mean that the Parent has not been afforded the opportunity to meaningfully participate. The Team developed an IEP that provide FAPE.

For these reasons I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA did not allow the Parent and the Parent’s representatives (legal and educational) to meaningfully engage in the IEP Team and process.

**ISSUE B**: **Whether the LEA denied the student FAPE when it failed to consider safety concerns and their impact on the child’s education as part of the IEP process.**

**ISSUE C: Whether the LEA denied the student FAPE when it failed to consider required related services for the Student based the need for an individualized educational plan and medical directives.**

For ease of analysis, Issues B and C are being considered simultaneously because they share the core details of the allegations against the LEA and because the only safety concerns addressed by the Parent during the hearing are related to the request for a medical aide as a related service, under Issue C.

The Parent did not meet the burden of proof and persuasion to show that the LEA denied the Student FAPE by failing to consider required related services for the Student based on the need for an individualized educational plan and medical directives.

Pursuant to 34 CFR §300.34(a), related services encompass a variety of services that include transportation, […] school health services […], social work services […].

The Parent requested a medical aide as a related service. The Parent testified that one of the main reasons why she filed for due process is because she believes that there is not an adequate health plan in place to address the Student’s xxxxxxxxxxxxxxxxxxxxx. Specifically, she has requested that a medical aide be provided to assist the Student with xxxxxxxxxx and hygiene needs. This has been a major concern for the Parent for years. The Parent testified that she believes that the “Student’s school refusal issues arise from the fact that the Student […] is experiencing anxiety because XX knows that there is not an appropriate medical care person at the school; that the Student is afraid XX is going to sit in xxxxx where XX is not clean.” The Parent testified that the Student “sometimes has a massive xxxxxxxxxx, like [the] morning [of this hearing].” The Parent also testified about the practical challenges of the Student’s xxxxx’s incontinence. She testified that the Student is incapable of cleaning xxxxself. She also testified repeatedly that while attending school at XXXX/Xxxxxxxxxxxxxxx as well as summer school in 2022, the Student’s garments were soiled and that XX came home filthy.

The last consented to IEP of October 2021 provided, as one of the accommodations, assistance for Activities of Daily Living (ADL), xxxxxxxxxx, and hygiene. The Parent testified that despite being reassured of the adequacy of the aide, the Student was coming home filthy when commuting to school from XXXX. When the Parent looked into the matter, she found out that the aide provided was not a medical aide supporting the Student’s xxxxxxxxxx and hygiene needs.

When it came to developing a new IEP, the need of a medical aide became paramount for the Parent. The Parent provided the IEP Team with a letter from the Student’s treating physician, Dr. Xxxxxxxxxx, which indicated that the Student needed a medical aide. Whether a medical aide is necessary has been a topic of discussion in multiple IEP meetings. The legal analysis reverts back to whether the Team properly considered the Parent’s request (*Blackmon v. Springfield R-XII School Dist.)* The evidence shows that the Team considered the request and decided that the Student’s medical needs could be met through a suitable alternative, a trained aide instead of medical aide, thus providing FAPE.

After the Parent provided the Team with the letter from Dr. Xxxxxxxxxx, Ms. Xxxxxxxxxxxxxxx, who is a special education nursing specialist, reached out to Dr. Xxxxxxxxxx for clarification. Ms. Xxxxxxxx testified that Ms. XXXX relayed to the Team that Dr. Xxxxxxxxxx clarified that someone who worked for the school, who was trained by a healthcare provider, such as a school nurse or someone in a similar position, could train an individual to provide for the student’s healthcare needs. The training of seven female (at the request of the Parent) aides would be done by Xxxxxxxxxxxxxxx. The Parent has never agreed or consented to this proposal. The Parent testified that she has not signed many IEPs because “they won’t give [the Student] potty support, the proper potty support.”

The Parent did not provide any credible testimony, and certainly no expert testimony, that a medical aide, versus a regular trained aide, would be able to resolve the problem. The Parent testified that at one point she provided a Uniform Assessment Instrument (UAI) that shows the need for a medical aide, but no UAI was ever introduced by the Parent in this proceeding, and her credibility on this topic was successfully impeached by LEA’s counsel on this topic during cross examination. Furthermore, to address the practical reality of effectiveness of any aide, medical or not, the LEA introduced evidence that on April 25, 2023 the Student had a virtual visit with Dr. Xxxxxxxxxx who recommended that “he could write a letter to the school, but that if the Student was refusing all aid, he could not insist that the school assist with XX in a combative large child.”

The evidence showed that the Team proposed a suitable alternative. Ms. Xxxxxxxxx testified that at Xxxxxxxxxxxxxxxxxxxx School several students are wheelchair bound and that the instructional aides have to use supported lifts to change them. Many students are wearing diapers and there are also students with feeding tubes. The instructional aides are trained to assist and provide support; xxxxxxxxxx is one of the main things in the self-contained classrooms that they are trained to do. She also testified that the instructional aides have training on how to wipe a student if necessary, how to change a student’s clothes if they get soiled, how to identify if a child needs ointments or has soiled themselves. Ms. Xxxxxxxxx testified that instructional aides deal with this type of thing on an hourly basis. Ms. Xxxxxxxxx also testified that during the May 28, 2022 meeting, Xxxxxxxxxxxxxxx stated that the Student had improved with regards to behavior in xxxxxxxxxx and hygiene and that XX was doing well with XX one-to-one aide.

During IEP meetings, there was also discussion about in-home support that could be provided to the Student by personnel other than the LEA’s personnel, namely by FAPT. The Parent testified that Ms. Xxxxxxxxx had proposed that LEA’s personnel provide that in-home support and that the LEA had agreed to it, but Ms. Xxxxxxxxx testified that this never happened. LEA’s position has always been that the aides on the bus are not supposed to go inside a student’s home.

For these reasons, I conclude that the Parent did not meet the burden of proof and persuasion in regards to the request for a medical aide as a related service, and that the IEP provided FAPE.

Transportation was an issue in this proceeding in several ways. First, there is transportation during summer school in 2022. The Parent agreed that the Student would attend summer school as part of the resolution session following the initiation of Due Process by the LEA. The timing of the consent by the Parent was such that normal transportation could not be arranged. As a result, the LEA arranged for a car instead of a school bus to transport the Student. Second, there is transportation as it relates to the issue of the partially consented to IEP of August 19, 2022. The Parent alleged that at the start of the 2022-2023 school year, the Student was ready to ride the bus, but that the bus never came because Dr. Xxxxxxx canceled transportation. The evidence shows that when the August 19, 2022 IEP was developed, the LEA had proactively set up transportation for the Student awaiting the Parent’s written consent to change of placement. However, when the Parent did not provide full consent to the IEP, based on the fact that it was not clear to the LEA what exactly the Parent had consent to, Dr. Xxxxxxx explained to the Parent that transportation could not be provided to Xxxxxxxxxxxxxxxxxxxx School, because there was no IEP that had been signed changing the Student’s placement to public day school. For the 2023-2024 school year transportation is being sent every day, affording the Student FAPE.

For these reasons, I conclude that the Parent did not meet the burden of proof and persuasion in regards to the issue of transportation as a related service.

The Parent testified that she requested a Qualified Mental Health Professional (QMHP) or a Board Certified Behavior Analyst (BCBA) as a related service. Ms. Xxxxxxxxx testified that a BCBA typically addresses behaviors like aggression. Based on the Xxxxxxxxxxxxxxx discharge summary, the Student was not presenting at that time any physical danger to xxxxself or others. In Ms. Xxxxxxxxx’s opinion the Student at that point in time did not need a BCBA. There has also been extensive testimony regarding the need of a Functional Behavioral Assessment (FBA). Ms. Xxxxxxxxx testified that an FBA is conducted to see if a Behavior Intervention Plan (BIP) is appropriate. The FBA should be conducted in the setting where the BIP is going to be implemented and it would not be appropriate to conduct an FBA in the home if the BIP is going to be implemented in the school setting. Ms. Xxxxxxxxx further opined that if the behavior occurs in the home, the FBA needs to be conducted in the home, which is what Ms. Xxxxxxxx offered to do, as part of the wraparound services that the LEA had coordinated.

For these reasons, I conclude that the Parent did not meet the burden of proof and persuasion in regards to the issue of a Qualified Mental Health Professional (QMHP) or a Board Certified Behavior Analyst (BCBA) as a related service, and that the IEP as written provide FAPE.

**ISSUE D**: **Whether the LEA denied the student FAPE when it engaged in harassment of the Student in the educational setting, and further retaliation against the Parent.**

**ISSUE L: Whether the LEA denied the student FAPE when it failed to ensure that the Student and the Parent were not subjected to an ongoing hostile environment where hate crimes, based in disability bigotry resulted in a culture within the LEA in which the Conspiracy Against Rights, 18 U.S.C. § 241 statute is violated by school division staff serving on IEP Teams as well as the Sands Andersen law firm, as standard operating procedure**

For ease of analysis, Issues D and L are being considered simultaneously because they share the core details of the allegations against the LEA.

The Parent did not meet the burden of proof and persuasion to show that the LEA engaged in harassment of the Student in the educational setting, and further retaliation against the Parent. Furthermore the Parent did not meet the burden of proof and persuasion to show that the LEA subjected the Student or the Parent to hostile environment where hate crimes resulted in a culture within the LEA in which the Conspiracy Against Rights, 18 U.S.C. § 241 statute is violated by school division staff serving on IEP Teams as well as the Sands Andersen law firm, as standard operating procedure.

In regards to harassment against the Student, no credible testimony was provided by the Parent except in terms of general statements with dissatisfaction with the LEA’s ability to address the Student’s xxxxxxxxxx and hygiene needs. In the regards to allegations of retaliation against the Parent and hostile environment, the Parent contends that 1) the LEA’s large number of correspondence to the Parent, in the form of letters, notices, and emails, amounted to a form of retaliation, 2) the truancy referral is also evidence of retaliation, and 3) the LEA “calling the police on her” or LEA’s attitude toward her in general created a hostile environment was done in retaliation of her unwillingness to agree to the proposed IEPs or IEP’s Amendments.

Several individuals routinely corresponded with the Parent, namely Mr. Xxxxxxx, Dr. Xxxxxxx, Ms. Xxxxxx, and Dr. Xxxxxx. The large number of correspondence is uncontested. It is also uncontested that the Parent contacted several individuals throughout the timeframe relevant to this proceeding. Some of the Parent’s emails were a daily occurrence. She testified that she often asked questions and that she reached out to many individuals in the central office as well as Xxxxxxxxxxxxxxxxxxxx School. Mr. Xxxxxxx testified that he sent out letters to the Parent on coordinating efforts because the Parent had reached out to multiple people in the Central Office asking questions. Mr. Xxxxxxx served the purpose of trying centralized communication when it came to meeting notices, invitations, and efforts to answer the Parent’s questions. This was also the case for Dr. Xxxxxxx.

The evidence shows that Dr. Xxxxxx correspondence and interaction with the Parent seemed to be more focused on the truancy issue, which in itself and overall remains unclear as to how it started. In fact, the hearing did not uncover any details or shed any light as so who made the referral; nonetheless, the Parent has the burden of proof and persuasion, and the Parent was not able to meet it. Nonetheless, once a referral is made that a student is truant, the LEA must follow its procedure.

Mr. Xxxxxxxxx testified that the Parent had attempted at least twice to enroll the Student at Xxxxxxxxxxxxxxxxxxxx School for the 2022-2023 school year. The first time was during orientation. Due to the fact that the October 2021 IEP still reflected private day school as placement, the Student could not be enrolled. He encouraged the Parent to meet back with the IEP Team to change placement to public day school. Mr. Xxxxxxxxx shared this information with Dr. Xxxxxxx. The Student’s absences were marked “excused.” This explains why the school did not send any five-day unexcused calls or set up a ten-day unexcused meeting with the parent. Following Mr. Xxxxxxxxx’ advice, the Parent met with the IEP Team. They attempted to obtain consensus on a new IEP, but the effort was not successful. In order to facilitate enrollment, the school proposed an amendment to the October 2021 IEP to only change placement, but the Parent did not agree. The IEP Team reconvened once again, and the Parent only gave “partial consent”. On October 27, 2022, Dr. Xxxxxx wrote a letter to the Parents asking them to work together to enroll the Student and she advised the Parents that she would be happy to support them in the process. On November 17, 2022, the Parent participated in a virtual meeting which resulted in the creation of the Attendance Success Plan. Pursuant to the Attendance Success Plan, the recommendations made were to be reviewed and compliance was expected by January 17, 2023. It was also noted that failure to fulfill the responsibilities in the plan by the Student or the Parent may result in a referral to the Xxxxxxxxxxxxxx Juvenile and Domestic Relations Court. The Parent attempted to enroll the Student again in December 2022, but was unsuccessful. This lead to the March 1, 2023 Attendance Service Plan. It is to be noted that the Parent was never charged with truancy or referred to the Juvenile and Domestic Relations Court.

The Parent contends that Dr. Xxxxxx should have kept into consideration and noted the fact that the Parent had attempted numerous times to enroll the Student, and that Dr. Xxxxxx acted for the sole purpose of retaliating against the Parent. The evidence simply does not support this allegation.

Lastly, the Parent contends that the LEA’s overall attitude toward her created a hostile environment, in and outside of the meetings. There has been ample testimony relating to the very heated interactions between the Parent and LEA’s staff during the IEP meetings, and the evidence shows that the Parent has been, in fact, often (although not always) the one doing the finger pointing, the shouting, the interrupting, *de facto* creating a hostile environment for all the other participants (see analysis of Issue A(a) above). The Parent testified about one incident, during a meeting, when Ms. Xxxxxxxx threatened to have an officer remove her from the building, and that an administrator came instead and stated “people like her, central office, create a hostile environment.” Ms. Xxxxxxxx testified that she never called the police. While it is possible that Mr. xxxxxxx may have made that statement, he was not present when the heated exchange took place and what lead to it. On the other hand, the Parent’s dislike of Ms. Xxxxxxxx and the LEA in general is patent. She testified that feels bullied by Ms. Xxxxxxxx, that Ms. Xxxxxxxx was being dismissive toward her, that she did not understand why Ms. Xxxxxxxx was even part of the IEP meetings. She has also testified that Ms. Xxxxxxxx, being one of the two newly hired individuals at Central office, “just [was] not accepting what had already been documented and talked about in prior IEP meetings.”

For these reasons, I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA engaged in harassment against the Student, nor retaliation against the Parent or created a hostile environment.

**ISSUE E**: **Whether the LEA denied the student FAPE when it failed to properly monitor progress as well as report and document incidents involving the Student in the educational setting.**

The Parent did not meet the burden of proof and persuasion to show that the LEA failed to properly monitor progress as well as report and document incidents involving the Student in the educational setting.

The Parent introduced evidence and presented testimony that was not relevant to the 2022-2023 or 2023-2024 school year. Specifically the Parents addressed allegations of failure to properly monitor progress as it relates to the time that the Student spent at XXXX/ Xxxxxxxxxxxxxxx. The Student was discharged from Xxxxxxxxxxxxxxx in June 2022, which antecedes the relevant timeframe of this proceeding.

For this reason, I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA failed to properly monitor progress as well as report and document incidents involving the Student in the educational setting.

**ISSUE F: Whether the LEA denied the student FAPE when it failed to allow the Parent to copy and review all records, including videos and incident reports relating to incidents involving the Student in the educational setting.**

The Parent did not meet the burden of proof and persuasion to show that the LEA failed allow the Parent to copy and review all records, including videos and incident reports relating to incidents involving the Student in the educational setting.

The Parent contends that she repeatedly made requests to review the Student’s education records and that the LEA did not comply with the requests. This is contrary to the evidence. Mr. Xxxxxxxxx testified that the Parent received a copy of the Student’s education records; he remembers seeing the office staff making digital copies for the Parent. Similarly, Mr. Xxxxxxx testified that the Parent not only has been given the opportunity to come in and inspect and review the Student’s education records, the Parent also received a flash drive in June 2023 containing the requested records. Furthermore, Mr. Xxxxxxx testified that he arranged for the delivery of an additional flash drive in November 2023 that contained records from June 2023 to November 3, 2023.

The Parent contends that the education records delivered to her should have included copies of testing protocols. Mr. Xxxxxxxxx testified that Dr. Xxxxxxx advised him that because of copyright infringement concerns the protocols could not be emailed to the Parent. One particular testing protocol was discussed during the hearing. Ms. Xxxxxxxxx testified that Ms. Xxxxxxxxxxx did the Woodcock-Johnson in the summer of 2022. The Parent received the report through Ms. Xxxxxxxxxxx which states all of the scores, the strengths and weaknesses. The Parent requested the testing protocol, but Ms. Xxxxxxxxx withheld it explaining the concerns about copyright law.

The issue of records has also been discussed in the context of IEP meetings. Ms. Xxxxxxxx testified that the Student’s cumulative file was brought to the IEP meetings; it was on the table and the Parent had access to it; and in at least one instance, in February 2023, Xxxxxxxxxxxx looked at the documents and the records. Overall the evidence showed that not only the Parent had access to inspect and review records at all times, she received a copy of the Student’s education records when requested, and also had additional opportunities during IEP meetings to review the Student’s records.

For this reason, I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA failed allow the Parent to copy and review all records, including videos and incident reports relating to incidents involving the Student in the educational setting.

**ISSUE G**: **Whether the LEA denied the student FAPE when it failed to provide service and resource coordination services and to allow the parent to meaningfully participate as an equal IEP Team member.**

The Parent did not meet the burden of proof and persuasion to show that the LEA failed to provide service and resource coordination services and to allow the parent to meaningfully participate as an equal IEP Team member.

 The issue of coordination services was discussed in three areas. The first was in regards to the coordination of wraparound services provided by XXXX. The testimony from Ms. Xxxxxxxxx showed that resources were available to the Student through CSB and XXXX: the CSB caseworker would do a functional behavior assessment to see what support he could put in place, and Ms. Xxxxxxxxxx from XXXX stated that she would be able to provide wraparound support outside of the school, and overall the school would collaborate with these community partners to see that services were provided.

The second area regarded coordination services as they were discussed during the development of the October 16, 2022 IEP. Dr. Xxxxxxx testified that while at one point homebound was offered as well as partial day start, ultimately a comprehensive education in the public school general education setting was proposed that offered behavior support and ADL support, access to a social worker and school counselor, thus providing FAPE.

A third area in which service and resource coordination services was discussed regarded the Student’s case manager. The Parent testified that she did not find out the Student had a new case manager, namely Ms. Xxxxxxxxxxx, until the first day of this hearing, and never knew that the case manager is supposed to introduce herself/himself to the family as Mr. Xxxxxxxxx testified. While the LEA did not produce any evidence to rebut the Parent’s assertion that Ms. Xxxxxxxxxxx never introduced herself to the Parent as the new case manager in August 2022, the evidence is abundant that the Student did in fact receive coordination services and that the newly developed IEP of October 16, 2023 includes coordination services to see that the Student has access to transportation, social worker, counselor, behavior support and ADL support. Furthermore, Ms. Xxxxxxxxxxx worked with the Student during the 5 days that he attended summer school. She is also the one who conducted the Woodcock-Johnson and provided the Parent with the report with the scores, strengths and weaknesses. In other words, even assuming that the Parent was not aware of Ms. Xxxxxxxxxxx’s new role, Ms. Xxxxxxxxxxx is certainly a known person to the Parent. This is an area of weakness in the LEA’s case because Ms. Xxxxxxxxxxx was not a witness in this hearing, but it is not sufficient for the Parent to meet the burden of proof and persuasion that service and resource coordination services, in the end, were not provided. Lastly, no evidence was produced to show that the Parent was not allowed to meaningfully participate as an equal IEP Team member as it relates to service and resource coordination services.

For this reason, I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA failed to provide service and resource coordination services and to allow the parent to meaningfully participate as an equal IEP Team member.

**ISSUE H**: **Whether the LEA denied the student FAPE when it failed to ensure that special education instructional staff assigned to student complied with the mandated professional standards as identified by the Virginia Department of Education and the IDEA.**

The Parent did not meet the burden of proof and persuasion to show that the LEA failed to ensure that special education instructional staff assigned to student complied with the mandated professional standards as identified by the Virginia Department of Education and the IDEA.

The Parent introduced evidence and presented testimony that was not relevant to the 2022-2023 or 2023-2024 school year. Specifically the Parents allegations pertain to instruction provided by Ms. Xxxxxxxx during summer school which took place in the summer of 2022 prior to the beginning of the 2022-2023 school year. With this said, even in that instance, Ms. Xxxxxxxx testified that the Student while in summer school was working on reading SOL standards 8.5 and 8.4., providing FAPE.

For this reason, I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA failed to ensure that special education instructional staff assigned to student complied with the mandated professional standards.

ISSUE I: **Whether the LEA, Virginia Department of Education and the Sands Andersen Law Firm denied the student FAPE when they failed to ensure that all IEP Team participants demonstrated a legitimate educational purpose when serving on the IEP Team.**

The Parent did not meet the burden of proof and persuasion to show that the LEA failed to ensure that all IEP Team participants demonstrated a legitimate educational purpose when serving on the IEP Team.

The Parent contends that one specific member of the IEP Team, namely Ms. Xxxxxxxx, does not have a legitimate purpose when serving on the Team. This is contrary to the evidence produced and testimony presented. Ms. Xxxxxxxx is an expert in Special Education Planning. She testified that she focuses on compliance and has participated in IEP meetings for over 20 years. After the Parent filed for Due Process in 2022, she worked on the LEA’s Response and was involved in mediation efforts with the Parent. Ms. Xxxxxxxx reviewed the Student’s entire cumulative file. She had a legitimate educational interest in doing so, given that she was performing a task consistent with her role within the school district. Furthermore, when in the Fall of 2022 it was not clear where the Student would be going to school, so she was asked to support the IEP Team as the LEA representative. Her presence in the IEP meeting.at that time was certainly permitted pursuant to 34 CFR 300.21(a) which states that “[t]he public agency must ensure that the IEP Team for each child with a disability includes […] (4) a representative of the public agency who (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities; (ii) Is knowledgeable about the general education curriculum; and (iii) Is knowledgeable about the availability of resources of the public agency. Ms. Xxxxxxxx’ qualifications meet all of those criteria. She was an active participant and a contributing member of the IEP Team. The same analysis applies for the other LEA staff members, central office or not, who interacted with the Parent in and out of the IEP meetings. The Parent testified that many of those individuals have never met the Student. However, meeting the Student is not a requirement. What is required is that those individuals meet the criteria identified above and the evidence shows that they all do.

For these reasons, I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA failed to ensure that all IEP Team participants demonstrated a legitimate educational purpose when serving on the IEP Team.

**ISSUE J**: **Whether the LEA, Virginia Department of Education and the Sands Andersen Law Firm denied the student FAPE when they failed to prevent acts of intentional and repeated acts of forgery by school division staff and the LEA’s outsourced counsel, the Sands Anderson Law Firm involving The Student’s educational records**.

**ISSUE M: Whether the LEA denied the student FAPE when it failed to protect the Student and Parents from their staff’s repeated criminal acts of forgery, forgery via computer, and uttering as defined by Virginia criminal code, resulting in extensive emotional and physical trauma as well as irreparable harm for the family**

For ease of analysis, Issues J and M are being considered simultaneously because they share the core details of the allegations against the LEA.

The Parent did not meet the burden of proof and persuasion to show that the LEA, Virginia Department of Education and the Sands Andersen Law Firm failed to prevent acts of intentional and repeated acts of forgery by school division staff and the LEA’s outsourced counsel involving the Student’s educational records. Furthermore, the Parent did not meet the burden of proof and persuasion to show that the LEA failed to protect the Student and Parents from their staff’s repeated criminal acts of forgery, forgery via computer, and uttering as defined by Virginia criminal code, resulting in extensive emotional and physical trauma as well as irreparable harm for the family.

The Parent, via the Advocate, and mostly through objections, or questions of the witnesses, repeatedly stated that correspondence, letters, IEPs, Prior Written Notices, Grade Reports, essentially almost the entire LEA’s exhibit book is comprised of forged records.

The Parent argues that the LEA intentionally omitted or included wrong information on the student’s records. Although the Parent has produced evidence as to multiple inaccuracies of certain documents, such as the Attendance Success Plan – and I do agree that there were numerous inaccuracies on this specific document – no evidence was ever introduced that such inaccuracies were substantial to the point of denying FAPE, but certainly no evidence other than general statement by the Parent, that the inaccuracies were intentional acts of forgery. The Parent also argues that the Prior Written Notices are defective in that they do not include all of the Parent’s input, comments or reasoning for denying the Parent’s requests. The LEA introduced the prior written notices issued during the relevant times in this proceeding. Ms. Xxxxxxxxx testified that all notices include the required elements under the law. In contract, notable is a statement by the Parent, who testified that when a PWN was sent to her after the IEP that was proposed on October 16, 2023, she did not even read it because she was “sick and tired of the school division refusing what the Student needs while they try to constantly claim that they have been providing FAPE, which is completely false.”

The Parent contends that she has requested correction of the contents of many documents. Dr. Xxxxxxx testified that she advised the Parent via correspondence dated April 25, 2023 about the process called Working through the School Board Policy 4100 to address the Parent’s assertions that there were inaccuracies in the Student’s educational record.

No evidence was introduced by the Parent to show that any criminal acts of forgery and forgery by computer, and uttering were ever committed, like a conviction for example or evidence of any of the elements of criminality. Furthermore, no evidence was ever introduced that shows emotional and physical trauma or irreparable harm for the family.

For these reasons, I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA, Virginia Department of Education and the Sands Andersen Law Firm failed to prevent acts of intentional and repeated acts of forgery by school division staff and the LEA’s outsourced counsel involving the Student’s educational records. Furthermore, I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA failed to protect the Student and Parents from their staff’s repeated criminal acts of forgery, forgery via computer, and uttering as defined by Virginia criminal code, resulting in extensive emotional and physical trauma as well as irreparable harm for the family.

**ISSUE K**: **Whether the LEA denied the student FAPE when it failed to ensure that the IEP Team complied with the “Meaningful IEP Development” protocols as well as the mandated “Standards-based IEP Development” guidance required under SB 1288.**

**ISSUE K(a)**: **Whether the LEA denied the student FAPE when it failed to ensure that all IEP Team participants understood their respective roles, operated within their scope of licensure, and were certified to serve on the IEP Team as mandated by SB 1288.**

For ease of analysis, Issues K and K(a) are being considered simultaneously because they share the core details of the allegations against the LEA as they relate to SB1288.

This ruling assumes that by “Meaningful IEP Development” protocols the Parent intended to refer to the Meaningful IEP Meetings Online Modules.

The Parent did not meet the burden of proof and persuasion to show that the LEA failed to ensure that the IEP Team complied with the “Meaningful IEP Development” protocols as well as the mandated “Standards-based IEP Development” guidance required under SB 1288. Furthermore, the Parent did not meet the burden of proof and persuasion to show that the LEA failed to ensure that all IEP Team participants understood their respective roles, operated within their scope of licensure, and were certified to serve on the IEP Team as mandated by SB 1288.

The Parent did not introduce any evidence that shows what protocols or modules of the Meaningful IEP Meetings Online Modules the IEP Team failed to comply with and how.

The evidenced showed that the Parent took the online course several times and that each LEA employee has taken the course. But the Parent did not introduce any evidence to show which modules were not followed by the Team or how they did not adhere to them. In other words, even if testimony had been offered to show that the modules are a requirement for the Team to follow, this Hearing Officer has no elements to determine whether the LEA failed to ensure that the Team adhered to the modules.

Similarly, in regards to the development of standards-based IEPs as opposed to traditional IEPs, the Parent did not introduce any evidence to show 1) how SB 1288 relates to the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., and its implementing regulations, 34 C.F.R. § 300 *et seq*., and the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, 8 VAC § 20-81 *et seq*., and 2) that the LEA failed to ensure that the IEP Team complied with “Standards-based IEP Development” guidance required under SB 1288.

In addition the Parent failed to provide evidence that SB 1288 is controlling law; in other words the Parent did not produce any evidence that all (or any) individuals who serve on an IEP Team are required to be certified under SB 1288.

For these reasons, I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA failed to ensure that the IEP Team complied with the “Meaningful IEP Development” protocols as well as the mandated “Standards-based IEP Development” guidance required under SB 1288. Furthermore, I conclude that the Parent did not meet the burden of proof and persuasion to show that the LEA failed to ensure that all IEP Team participants understood their respective roles, operated within their scope of licensure, and were certified to serve on the IEP Team as mandated by SB 1288.

## ORDER

Based upon the above Findings of Fact and Conclusions of Law, it is hereby ordered that the LEA is the prevailing party in this hearing and that no relief is awarded to the Parent.

SO ORDERED.

DATED: January 1, 2024

HEARING OFFICER

Hearing Officer:

Tiziana Ventimiglia, Esq

4084 University Drive, Suite 100

Fairfax, Virginia 22030

(703)591-3100

tventimiglia@hartsoemorgan.com

## NOTICE OF RIGHT TO APPEAL

This decision is final and binding unless either party appeals in a federal district court within 90 calendar days of this decision, or in a state circuit court within 180 calendar days of the date of this decision.

**Certificate**

I hereby certify that a true copy of the foregoing Decision was sent by e-mail and via First Class Mail on January 1, 2024, to:

Xxxxxxxxxxxxx

xxxxxxxxxxxxxxxxxxxxxx

xxxxxxxxxxx, VA xxxxx

xxxxxxxxxxxxxxxxxxxxxxx

xxxxxxxxxxxxxxxxxxxxx

Student’s Parent

Dr. Xxxxxxxxxxxxxx,

Director of Special Education

xxxxxxxxxxxxxxxxxx

xxxxxxxxxx, Virginia xxxxx

xxxxxxxxxxxxxxxxxxx

Xxxxxxxxxxxxxxxxxxxxxxxxx Public Schools

Kandise N. Lucas, B.A., M.S.Ed., FFT,

QMHP, Ph.D.

clucasklucas@yahoo.com

Parent’s Representative

Jason Ballum, Esq.

LaToya Croxton Esq.

Pamela O’Berry, Esq.

Sands Anderson PC,

1111 East Main Street, Suite 2400,

Richmond, VA 23218-1998,

JBallum@sandsanderson.com

lcroxton@sandsanderson.com

POberry@sandsanderson.com

cc Kathryn Jones, Coordinator of Due Process Services

Office of Dispute Resolution and Administrative Services

Division of Special Education and Student Services

Virginia Department of Education

kathryn.jones@doe.virginia.gov

Reggie Frazier, Case Evaluator

pinetta146@gmail.com

## APPENDIX A – PERSONALLY IDENTIFIABLE INFORMATION

**XXXX XXXXX v. XXXXXXXXXXXXXXXXXXXXXXXXX PUBLIC SCHOOLS**

**Case No. 24-019**

|  |  |
| --- | --- |
| Student’s Name | Xxxx XXXXx |
| Date of Birth | xx/xx/xxxx |
| Student’s I.D. Number | xxxxxxxx |
| Attending School | N/A – / Home School: Xxxxxxxxxxxxxxxxxxxx School |
| Recommended School | N/A |
| Parent / Legal Guardian | Xxxxxxxxxxxxx  |
| Lea Representative / Director of Special Education | Dr. Xxxxxxxxxxxxxx / At the Hearing: Xxxxxxxxxxxxxx. |
| Witness: Coordinator, School Social Work Services | Dr. Xxxxxxx Xxxxxx |
| Witness: Principal, Xxxxxxxxxxxxxxxxxxxx School | Xxxxxxx Xxxxxxxxx |
| Witness: Coordinator of special education, Administrative Services | Xxxxxxxxxxxxxx |
| Witness: Specialist, Department of Special Education | Xxxxx Xxxxxxxx |
| Witness: Xxxxxxxxxxxxxx CSB Services coordinator. | Xxxxxxxxxxxxxxxxx |
| Witness: VDOE Director of Special Education Family Support and Special Facilities | Henry Millward |
| Witness: Personal Trainer / Mental Health Advocate | Xxxxxxxxxxxx |
| Witness: Parent | Xxxxxxxxxxxxx |
| Witness: Coordinator of Special Education | Xxxx Xxxxxxxxx |
| Witness: General Education Teacher | Xxxxxxxxxxxxxxxx |
| Witness: Director of Special Education | Dr. Xxxxxxxxxxxxxx |

Advocate for Petitioner: Kandise N. Lucas, B.A., M.S.Ed., FFT QMHP, Ph.D / Mr. El-Amin for limited purpose of arguing VDOE Motion to Quash Witness Subpoena.

Counsel for Respondent: J. Ballum, Esq., L. Croxton Esq. P. O'Berry, Esq. / Sands Anderson, PC

Hearing Officer: Tiziana Ventimiglia, Esq.

Case Evaluator: Reggie Frazier, Esq.

## APPENDIX B – LIST OF EXHIBITS CITED

**XXXX XXXXX v. XXXXXXXXXXXXXXXXXXXXXXXXX PUBLIC SCHOOLS**

**Case No. 24-019**

 **List of Exhibits in the Record and Decision**

| **Record** | **Hearing Officer’s Exhibits** |
| --- | --- |
| HO-1 | Notice of Due Process Complaint  |
| HO-2 | Letter of Appointment of Hearing Officer |
| HO-3  | LEA’s Response to the Complaint and Motion to Dismiss by Respondent |
| HO-4 | First Administrative Hearing Summary and Order – 10/30/23 |
| HO-5 | First Prehearing Conference Summary and Order – 11/3/23 |
| HO-6 | Second Prehearing Conference Summary and Order – 11/9/23 |
| HO-7 | LEA’s Notice of Insufficiency  |
| HO-8 | Order re: Notice of Insufficiency – 11/3/23 |
| HO-9 | Order re: LEA’s Motion to Dismiss – 11/3/23 |
| HO-10 | Order re: Location of Hearing – 11/3/23 |
| HO-11 | VDOE’s Reply to the Complaint and Motion to Dismiss Case No. 24-020 |
| HO-12 | Signed Subpoena for LEA and for Parent |
| HO-13 | Parent’s Brief in Support of Request for Accommodations |
| HO-14 | LEA’s Response to Parent’s Request for Accommodations |
| HO-15 | Order re: Parent’s Request for Accommodations – 11/9/23 |
| HO-16 | LEA’s Motion to Quash Subpoena Duces Tecum |
| HO-17 | Order re: LEA’s Motion to Quash Subpoena *Duces Tecum – 11/10/23* |
| HO-18 | LEA’s Motion to Quash Witness Subpoena  |
| HO-19 | Order re: LEA’s Motion to Quash Witness Subpoena – 11/10/23 |
| HO-20 | Order re: Witness Time Limits -- 11/10/2023 |
| HO-21 | Parent’s Motion to Quash Subpoena *Duces Tecum* |
| HO-22 | LEA’s Response to Parent’s Motion to Quash *Subpoena Duces Tecum* |
| HO-23 | Order re: Motion to Quash LEA’s Subpoena *Duces Tecum* |
| HO-24 | LEA’s Motion to Reconsider Ruling on Motion to Quash Witness Subpoena: Xxxxx, Xxxxxxxx |
| HO-25 | Parent’s Response to the LEA’s Motion to Reconsider Ruling on Motion to Quash Witness Subpoena re: Xxxxx, Xxxxxxx |
| HO-26 | Order re: Parent’s Motion to Reconsider Ruling on LEA’s Motion to Quash Witness Subpoeana |
| HO-27 | Parent’s Motion to Allow Remote Testimony |
| HO-28 | LEA Motion to Exclude Exhibits |
| HO-29 | VDOE Motion to Quash Witness Subpoena against Millward, Haymes, Hollins |
| HO-30 | Order Re: VDOE Motion to Quash Witness Subpoena |
| HO-31  | LEA’s Motion *in limine* to Exclude Exhibits |

|  |  |
| --- | --- |
| **Record** | **Exhibits Admitted into the Record** |
| SD-1 | 10/18/21 IEP - signed |
| SD-3 | 3/15/22 IEP - Not Consented, Signed 4/6/22 |
| SD-4 | 6/2/22 IEP Amendment |
| SD-5 | 6/16/22 Report Card |
| SD-6 | 6/17/22 Discharge Summary |
| SD-7 | 8/9/22 Letter to Parent |
| SD-11 | 8/19/22 IEP |
| SD-13 | 8/19/22 IEP with Parents’ Handwritten Notes |
| SD-14 | 8/19/22 PWN |
| SD-15 | 8/22/22 Email to Parent |
| SD-16 | 8/24/22 Email to Parent |
| SD-17 | 9/1/22 Email sending Letter, Proposed Amendment, and PWN |
| SD-18 | 9/1/22 Email to Parent & Letter with Parents’ Handwritten Notes |
| SD-19 | 9/21/22 XXPS Letter to Parent |
| SD-20 | 9/21/22 Series of Emails re: Invitation to IEP Meeting |
| SD-22 | 9/29/22 PWN |
| SD-25 | 10/14/22 PWN |
| SD-27 | 10/27/22 Email to Parent |
| SD-28 | 10/28/22 Letter to Parent |
| SD-30 | 12/2/22 Letter to Parent and Meeting Notice for 12/15/22 Meeting |
| SD-31 | 12/2/22 Email to Parent with Meeting Notice |
| SD-32 | 12/15/22 IEP & PWN |
| SD-35 | 2/7/23 PWN |
| SD-36 | 3/1/23 Truancy Records |
| SD-37 | 3/8/23 Letter to Parent re: Mediation |
| SD-38 | 4/25/23 Letter to Parent |
| SD-39 | 5/12/23 Due Process Hearing Request from Parent |
| SD-41 | 6/23/23 Letter to Parent re: IEP Amendment |
| SD-47 | 8/10/23 Draft IEP |
| SD-50 | 10/5/23 PWN |
| SD-55 | 10/16/23 IEP |
| SD-57 | 10/27/23 PWN |
| SD-58 | 11/15/23 Complaint with Exhibits |
| SD-60 | XXXXXXXX Medical Records |
| SD-63 | Resume of Xxxxxxxxxxxxxx |
| SD-65 | Resume of Xxxxxxxxxxxxxx |
| SD-66 | Resume Xxxxx Xxxxxxxxx |
| SD-69 | Resume of Xxxxxxx Xxxxxxxx |
| SD-70 | Resume of Xxxxxxxxxxxxxxxx |

1. Initially, two case numbers were assigned to this matter. Case No. 24-019 and Case No. 24-020 as it appeared that the Parent filed a Due Process Request against the Virginia Department of Education (VDOE). Counsel for VDOE filed a Reply to the Complaint and Motion to Dismiss. After confirming with the Parent that VDOE was not an intended respondent, Case No. 24-020 was dismissed with prejudice on October 30, 2023. [↑](#footnote-ref-1)
2. The Hearing Officer Exhibits will be referred to as “HO” followed by the exhibit number; Parent’s Exhibits will be referred to as “PE” followed by the exhibit number; and, LEA’s Exhibits will be referred to as “SD” followed by the exhibit number. References to testimony rendered during the Hearing will be referenced at “Testimony” followed by the volume and page number. [↑](#footnote-ref-2)
3. HO-1 – Notice of Due Process Complaint [↑](#footnote-ref-3)
4. HO-2 – Letter of Appointment of Hearing Officer. [↑](#footnote-ref-4)
5. HO-3 – Response to the Complaint by Respondent. [↑](#footnote-ref-5)
6. HO-4 – First Administrative Hearing Summary and Order [↑](#footnote-ref-6)
7. HO-5 – First Prehearing Conference Summary and Order. [↑](#footnote-ref-7)
8. HO-8 – Ruling / Determination – Notice of Insufficiency [↑](#footnote-ref-8)
9. HO-6 – Second Prehearing Conference Summary and Order [↑](#footnote-ref-9)
10. HO-13 – Parent’s Brief in Support [↑](#footnote-ref-10)
11. HO-14 – LEA’s Response to Motion for Accommodations [↑](#footnote-ref-11)
12. HO-15 – Order re: Parent’s Request for Accommodations [↑](#footnote-ref-12)
13. HO-27 – Motion to Allow Remote Testimony [↑](#footnote-ref-13)
14. HO-31 – LEA’s Motion *in limine* to exclude exhibits [↑](#footnote-ref-14)
15. HO-30 – VDOE Motion to Quash Mr. Millar’s Witness Subpoena [↑](#footnote-ref-15)
16. In 2004, Congress reauthorized the Individuals with Disabilities Education Act as the Individuals with Disabilities Education Improvement Act. *See* Pub. L. No. 108-446, 118 Stat. 2647 (Dec. 3, 2004), effective July 1, 2005. The amendments provide that the short title of the reauthorized and amended provisions remains the Individuals with Disabilities Education Act. *See* Pub. L. 108-446, § 101, 118 Stat. at 2647; 20 U.S.C. § 1400 (2006) ("This chapter may be cited as the 'Individuals with Disabilities Education Act.'"). [↑](#footnote-ref-16)
17. SD-1 [↑](#footnote-ref-17)
18. Parent’s Testimony [↑](#footnote-ref-18)
19. Parent’s Testimony, Volume II –25 [↑](#footnote-ref-19)
20. Parent’s Testimony [↑](#footnote-ref-20)
21. SD-4, 7 [↑](#footnote-ref-21)
22. SD-11,7 [↑](#footnote-ref-22)
23. SD-32, 9 [↑](#footnote-ref-23)
24. SD-55,5 [↑](#footnote-ref-24)
25. SD-1 [↑](#footnote-ref-25)
26. Parent’s Testimony, Volume II – 829, 16 [↑](#footnote-ref-26)
27. Parent’s Testimony, Volume II – 798, 23 [↑](#footnote-ref-27)
28. Parent’s Testimony, Volume II – 799,2 [↑](#footnote-ref-28)
29. Parent’s Testimony [↑](#footnote-ref-29)
30. Parent’s Testimony, Volume II – 799, 11 [↑](#footnote-ref-30)
31. Parent’s Testimony [↑](#footnote-ref-31)
32. SD-1 [↑](#footnote-ref-32)
33. Parent’s Testimony [↑](#footnote-ref-33)
34. Parent’s Testimony, Volume II – 797, 3 [↑](#footnote-ref-34)
35. Parent’s Testimony [↑](#footnote-ref-35)
36. Parent’s Testimony, Volume II – 741, 1 [↑](#footnote-ref-36)
37. Parent’s Testimony, Volume II – 825, 21 [↑](#footnote-ref-37)
38. Parent’s Testimony, Volume II – 816,19 [↑](#footnote-ref-38)
39. Parent’s Testimony, Volume II – 816, 7 [↑](#footnote-ref-39)
40. Parent’s Testimony [↑](#footnote-ref-40)
41. Parent’s Testimony [↑](#footnote-ref-41)
42. Parent’s Testimony, Volume II – 830, 22 [↑](#footnote-ref-42)
43. Parent’s Testimony, Volume II – 832, 22 [↑](#footnote-ref-43)
44. Parent’s Testimony, Volume III – 1088, 21 [↑](#footnote-ref-44)
45. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-45)
46. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-46)
47. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-47)
48. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-48)
49. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-49)
50. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-50)
51. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-51)
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56. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-56)
57. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-57)
58. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-58)
59. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-59)
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65. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-65)
66. Mr. Xxxxxxxx’ Testimony [↑](#footnote-ref-66)
67. Ms. Xxxxxxxxx’s Testimony, Volume III – 1126, 2 [↑](#footnote-ref-67)
68. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-68)
69. SD -63 [↑](#footnote-ref-69)
70. Mr. Xxxxxxx’s Testimony. [↑](#footnote-ref-70)
71. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-71)
72. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-72)
73. Mr. xxxxxxx’s Testimony [↑](#footnote-ref-73)
74. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-74)
75. Dr. Xxxxxxx’s Testimony, Volume IV – 1368, 15 [↑](#footnote-ref-75)
76. SD -65 [↑](#footnote-ref-76)
77. Dr. Xxxxxxx’s Testimony, Volume IV – 1376, 9 [↑](#footnote-ref-77)
78. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-78)
79. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-79)
80. SD-69 [↑](#footnote-ref-80)
81. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-81)
82. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-82)
83. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-83)
84. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-84)
85. SD-66 [↑](#footnote-ref-85)
86. Parent’s Testimony [↑](#footnote-ref-86)
87. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-87)
88. SD-6 [↑](#footnote-ref-88)
89. SD6, 2 [↑](#footnote-ref-89)
90. Parent’s Testimony [↑](#footnote-ref-90)
91. SD-6, 7 [↑](#footnote-ref-91)
92. Parent’s Testimony [↑](#footnote-ref-92)
93. Parent’s Testimony [↑](#footnote-ref-93)
94. Parent’s Testimony, Volume III – 1073, 7 [↑](#footnote-ref-94)
95. Parent’s Testimony [↑](#footnote-ref-95)
96. Parent’s Testimony [↑](#footnote-ref-96)
97. Parent’s Testimony [↑](#footnote-ref-97)
98. Parent’s Testimony [↑](#footnote-ref-98)
99. Parent’s Testimony [↑](#footnote-ref-99)
100. SD-5 [↑](#footnote-ref-100)
101. Parent’s Testimony [↑](#footnote-ref-101)
102. SD-6 [↑](#footnote-ref-102)
103. Parent’s Testimony [↑](#footnote-ref-103)
104. Parent’s Testimony [↑](#footnote-ref-104)
105. Parent’s Testimony Volume III -998, 13 [↑](#footnote-ref-105)
106. Parent’s Testimony [↑](#footnote-ref-106)
107. Parent’s Testimony [↑](#footnote-ref-107)
108. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-108)
109. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-109)
110. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-110)
111. Ms.xxxxxxxx’s Testimony, Volume III – 1245, 21 [↑](#footnote-ref-111)
112. SD-70 [↑](#footnote-ref-112)
113. Ms.xxxxxxxx’s Testimony, Volume III – 1248, 8 [↑](#footnote-ref-113)
114. Ms.xxxxxxxx’s Testimony, Volume III – 1249, 14 [↑](#footnote-ref-114)
115. Ms.xxxxxxxx’s Testimony, Volume III – 1249, 24 [↑](#footnote-ref-115)
116. Ms.xxxxxxxx’s Testimony, Volume III – 1277, 1 [↑](#footnote-ref-116)
117. Ms.xxxxxxxx’s Testimony, Volume III – 1250, 3 [↑](#footnote-ref-117)
118. Ms.xxxxxxxx’s Testimony, Volume III – 1251, 5 [↑](#footnote-ref-118)
119. Ms.xxxxxxxx’s Testimony, Volume III – 1252, 3 [↑](#footnote-ref-119)
120. Ms.xxxxxxxx’s Testimony, Volume III – 1252, 4 [↑](#footnote-ref-120)
121. Parent’s Testimony [↑](#footnote-ref-121)
122. Parent’s Testimony [↑](#footnote-ref-122)
123. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-123)
124. Parent’s Testimony [↑](#footnote-ref-124)
125. Mr. Millward’s Testimony [↑](#footnote-ref-125)
126. Parent’s Testimony [↑](#footnote-ref-126)
127. SD-7 [↑](#footnote-ref-127)
128. Dr. Xxxxxxx’s Testimony, Volume IV – 1382, 7 [↑](#footnote-ref-128)
129. SD-7 [↑](#footnote-ref-129)
130. Dr. Xxxxxxx’s Testimony, Volume IV – 1384, 14 [↑](#footnote-ref-130)
131. Parent’s Testimony Volume III – 993, 12 [↑](#footnote-ref-131)
132. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-132)
133. SD -19 [↑](#footnote-ref-133)
134. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-134)
135. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-135)
136. SD-58 [↑](#footnote-ref-136)
137. SD-13 [↑](#footnote-ref-137)
138. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-138)
139. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-139)
140. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-140)
141. SD-27 [↑](#footnote-ref-141)
142. SD-28 [↑](#footnote-ref-142)
143. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-143)
144. SD -30 [↑](#footnote-ref-144)
145. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-145)
146. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-146)
147. SD -31 [↑](#footnote-ref-147)
148. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-148)
149. Parent’s Testimony [↑](#footnote-ref-149)
150. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-150)
151. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-151)
152. Ms. Xxxxxxxxx’s Testimony, Volume III – 1136, 1 [↑](#footnote-ref-152)
153. Ms. Xxxxxxxxx’s Testimony, Volume III – 1137, 5 [↑](#footnote-ref-153)
154. SD - 11 [↑](#footnote-ref-154)
155. SD - 14 [↑](#footnote-ref-155)
156. Ms. Xxxxxxxxx’s Testimony, Volume III – 1138, 1 [↑](#footnote-ref-156)
157. Ms. Xxxxxxxxx’s Testimony, Volume III – 1138, 7 [↑](#footnote-ref-157)
158. Ms. Xxxxxxxxx’s Testimony, Volume III – 1140, 2 [↑](#footnote-ref-158)
159. Ms. Xxxxxxxxx’s Testimony, Volume III – 1141, 2 [↑](#footnote-ref-159)
160. Ms. Xxxxxxxxx’s Testimony, Volume III – 1141, 8 [↑](#footnote-ref-160)
161. Ms. Xxxxxxxxx’s Testimony, Volume III – 1141, 13 [↑](#footnote-ref-161)
162. Ms. Xxxxxxxxx’s Testimony, Volume III – 1142, 2 [↑](#footnote-ref-162)
163. SD-13, 33 [↑](#footnote-ref-163)
164. Ms. Xxxxxxxxx’s Testimony, Volume III – 1144, 11 [↑](#footnote-ref-164)
165. Ms. Xxxxxxxxx’s Testimony, Volume III – 1145, 3 [↑](#footnote-ref-165)
166. Ms. Xxxxxxxxx’s Testimony, Volume III – 1145, 12 [↑](#footnote-ref-166)
167. Ms. Xxxxxxxxx’s Testimony, Volume III – 1146, 5 [↑](#footnote-ref-167)
168. Parent’s Testimony [↑](#footnote-ref-168)
169. SD-22 [↑](#footnote-ref-169)
170. SD-25 [↑](#footnote-ref-170)
171. SD-32, 38 [↑](#footnote-ref-171)
172. Parent’s Testimony [↑](#footnote-ref-172)
173. SD-35 [↑](#footnote-ref-173)
174. Parent’s Testimony [↑](#footnote-ref-174)
175. SD-50 [↑](#footnote-ref-175)
176. SD-50 [↑](#footnote-ref-176)
177. SD-57 [↑](#footnote-ref-177)
178. Parent’s Testimony, Volume III – 962, 4 [↑](#footnote-ref-178)
179. Parent’s Testimony [↑](#footnote-ref-179)
180. SD-15 [↑](#footnote-ref-180)
181. SD-16 [↑](#footnote-ref-181)
182. Parent’s Testimony [↑](#footnote-ref-182)
183. Parent’s Testimony [↑](#footnote-ref-183)
184. Dr. Xxxxxxx’s Testimony, Volume IV – 1413, 7 [↑](#footnote-ref-184)
185. Dr. Xxxxxxx’s Testimony [↑](#footnote-ref-185)
186. Dr. Xxxxxxx’s Testimony, Volume IV - 1416, 4 [↑](#footnote-ref-186)
187. Parent’s Testimony, Volume III – 1045, 4 [↑](#footnote-ref-187)
188. Parent’s Testimony, Volume III – 1047, 5 [↑](#footnote-ref-188)
189. Parent’s Testimony [↑](#footnote-ref-189)
190. Parent’s Testimony, Volume III – 1055, 10 [↑](#footnote-ref-190)
191. Parent’s Testimony, Volume III – 1056, 16 [↑](#footnote-ref-191)
192. Parent’s Testimony, Volume III – 1057, 14 [↑](#footnote-ref-192)
193. Parent’s Testimony, Volume III – 1057, 25 [↑](#footnote-ref-193)
194. Parent’s Testimony, Volume III – 1058, 25 [↑](#footnote-ref-194)
195. Parent’s Testimony, Volume III – 1059, 25 [↑](#footnote-ref-195)
196. Parent’s Testimony, Volume III – 1062, 14 [↑](#footnote-ref-196)
197. SD3-10 [↑](#footnote-ref-197)
198. Parent’s Testimony, Volume III – 1069, 20 [↑](#footnote-ref-198)
199. Parent’s Testimony, Volume III – 1072, 17 [↑](#footnote-ref-199)
200. Parent’s Testimony, Volume III – 1070, 18 [↑](#footnote-ref-200)
201. Parent’s Testimony, Volume III – 1075, 6 [↑](#footnote-ref-201)
202. Parent’s Testimony, Volume III – 1075, 15 [↑](#footnote-ref-202)
203. SD-4, 34 [↑](#footnote-ref-203)
204. Parent’s Testimony, Volume III – 1076, 21 [↑](#footnote-ref-204)
205. Parent’s Testimony, Volume III – 1077, 20 [↑](#footnote-ref-205)
206. SD-4 [↑](#footnote-ref-206)
207. Parent’s Testimony, Volume III – 89, 12 [↑](#footnote-ref-207)
208. SD-1, 24 [↑](#footnote-ref-208)
209. SD-1 [↑](#footnote-ref-209)
210. Parent’s Testimony [↑](#footnote-ref-210)
211. Parent’s Testimony [↑](#footnote-ref-211)
212. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-212)
213. SD-4 [↑](#footnote-ref-213)
214. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-214)
215. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-215)
216. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-216)
217. Parent’s Testimony [↑](#footnote-ref-217)
218. SD-3,35 [↑](#footnote-ref-218)
219. Parent’s Testimony [↑](#footnote-ref-219)
220. SD-4,10 [↑](#footnote-ref-220)
221. SD-60, 3 [↑](#footnote-ref-221)
222. SD-60,3 [↑](#footnote-ref-222)
223. SD-55,12 [↑](#footnote-ref-223)
224. Parent’s Testimony Volume III – 1022, 19 [↑](#footnote-ref-224)
225. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-225)
226. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-226)
227. On Re-cross - Parent’s Testimony, Volume III – 1098, 1 [↑](#footnote-ref-227)
228. On re-cross - Parent’s Testimony, Volume III – 1099, 13 [↑](#footnote-ref-228)
229. Parent’s Testimony, Volume III – 1100, 4 [↑](#footnote-ref-229)
230. Parent’s Testimony, Volume III – 1100, 20 [↑](#footnote-ref-230)
231. Parent’s Testimony, Volume III – 1101, 9 [↑](#footnote-ref-231)
232. Parent’s Testimony, Volume III – 1101, 18 [↑](#footnote-ref-232)
233. Ms. Xxxxxxxxx’s Testimony, Volume III – 1131, 16 [↑](#footnote-ref-233)
234. Dr. Xxxxxxx’s Testimony, Volume IV – 1417, 3 [↑](#footnote-ref-234)
235. Dr. Xxxxxxx’s Testimony, Volume IV – 1503, 16 [↑](#footnote-ref-235)
236. Ms. Xxxxxxxxx’s Testimony, Volume III – 1131, 2 [↑](#footnote-ref-236)
237. Ms. Xxxxxxxxx’s Testimony, Volume III – 1132, 14 [↑](#footnote-ref-237)
238. Ms. Xxxxxxxxx’s Testimony, Volume III – 1133, 9 [↑](#footnote-ref-238)
239. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-239)
240. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-240)
241. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-241)
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246. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-246)
247. Dr. Xxxxxx’ Testimony. [↑](#footnote-ref-247)
248. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-248)
249. Dr. Xxxxxx’ Testimony. [↑](#footnote-ref-249)
250. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-250)
251. Dr. Xxxxxx’ Testimony. [↑](#footnote-ref-251)
252. SD 36-4 [↑](#footnote-ref-252)
253. SD 36-11 [↑](#footnote-ref-253)
254. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-254)
255. SD 36-12 [↑](#footnote-ref-255)
256. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-256)
257. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-257)
258. SD 36-12 [↑](#footnote-ref-258)
259. SD-36, 11 [↑](#footnote-ref-259)
260. Parent’s Testimony [↑](#footnote-ref-260)
261. Parent’s Testimony [↑](#footnote-ref-261)
262. SD-36, 11 [↑](#footnote-ref-262)
263. Parent’s Testimony [↑](#footnote-ref-263)
264. Parent’s Testimony [↑](#footnote-ref-264)
265. Parent’s Testimony [↑](#footnote-ref-265)
266. Parent’s Testimony [↑](#footnote-ref-266)
267. Parent’s Testimony [↑](#footnote-ref-267)
268. Parent’s Testimony [↑](#footnote-ref-268)
269. Parent’s Testimony [↑](#footnote-ref-269)
270. Parent’s Testimony [↑](#footnote-ref-270)
271. Parent’s Testimony [↑](#footnote-ref-271)
272. SD 36-5 [↑](#footnote-ref-272)
273. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-273)
274. SD 36-1 [↑](#footnote-ref-274)
275. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-275)
276. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-276)
277. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-277)
278. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-278)
279. SD 36-1 [↑](#footnote-ref-279)
280. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-280)
281. Dr. Xxxxxx’ Testimony [↑](#footnote-ref-281)
282. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-282)
283. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-283)
284. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-284)
285. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-285)
286. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-286)
287. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-287)
288. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-288)
289. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-289)
290. Parent’s Testimony [↑](#footnote-ref-290)
291. Parent’s Testimony [↑](#footnote-ref-291)
292. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-292)
293. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-293)
294. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-294)
295. Ms. Xxxxxxxxx’s Testimony, Volume III – 1174, 2 [↑](#footnote-ref-295)
296. Parent’s Testimony [↑](#footnote-ref-296)
297. Parent’s Testimony [↑](#footnote-ref-297)
298. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-298)
299. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-299)
300. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-300)
301. Mr. Xxxxxxxxx’ Testimony [↑](#footnote-ref-301)
302. Ms. xxxxx’s Testimony [↑](#footnote-ref-302)
303. Ms. xxxxx’s Testimony [↑](#footnote-ref-303)
304. Ms. xxxxxx’s Testimony [↑](#footnote-ref-304)
305. Ms. xxxxxx’s Testimony [↑](#footnote-ref-305)
306. Ms. xxxxxx’s Testimony [↑](#footnote-ref-306)
307. Ms. xxxxxx’s Testimony [↑](#footnote-ref-307)
308. Ms. xxxxxx’s Testimony [↑](#footnote-ref-308)
309. Ms. xxxxxx’s Testimony [↑](#footnote-ref-309)
310. Ms. Xxxxxxxxx’s Testimony, Volume III – 1159, 19 [↑](#footnote-ref-310)
311. Ms. xxxxxx’s Testimony [↑](#footnote-ref-311)
312. Ms. xxxxxx’s Testimony [↑](#footnote-ref-312)
313. Ms. xxxxxx’s Testimony [↑](#footnote-ref-313)
314. Ms. xxxxxx’s Testimony [↑](#footnote-ref-314)
315. Ms. xxxxxx’s Testimony [↑](#footnote-ref-315)
316. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-316)
317. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-317)
318. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-318)
319. Dr. Xxxxxxx’s Testimony, Volume IV – 1419, 1 [↑](#footnote-ref-319)
320. Dr. Xxxxxxx’s Testimony, Volume IV – 1421, 1 [↑](#footnote-ref-320)
321. Dr. Xxxxxxx’s Testimony, Volume IV – 1421, 11 [↑](#footnote-ref-321)
322. Dr. Xxxxxxx’s Testimony, Volume IV – 1422, 3 [↑](#footnote-ref-322)
323. Parent’s Testimony [↑](#footnote-ref-323)
324. Parent’s Testimony [↑](#footnote-ref-324)
325. Ms.xxxxxxxx’s Testimony, Volume III – 1255, 7 [↑](#footnote-ref-325)
326. Ms.xxxxxxxx’s Testimony, Volume III – 1256, 1 [↑](#footnote-ref-326)
327. Ms.xxxxxxxx’s Testimony, Volume III – 1256, 9 [↑](#footnote-ref-327)
328. Ms.xxxxxxxx’s Testimony, Volume III – 1259, 2 [↑](#footnote-ref-328)
329. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-329)
330. SD -47 [↑](#footnote-ref-330)
331. Ms. Xxxxxxxxx’s Testimony, Volume III – 1161, 7 [↑](#footnote-ref-331)
332. Ms. Xxxxxxxxx’s Testimony, Volume III – 1173 [↑](#footnote-ref-332)
333. Ms. Xxxxxxxxx’s Testimony [↑](#footnote-ref-333)
334. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-334)
335. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-335)
336. Ms. Xxxxxxxxx’s Testimony, Volume III – 1159, 13 [↑](#footnote-ref-336)
337. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-337)
338. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-338)
339. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-339)
340. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-340)
341. Parent’s Testimony, Volume III – 1041, 17 [↑](#footnote-ref-341)
342. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-342)
343. Ms. Xxxxxxxx’ Testimony [↑](#footnote-ref-343)
344. Ms. Xxxxxxxxx’s Testimony, Volume III – 1121, 7 [↑](#footnote-ref-344)
345. Ms. Xxxxxxxxx’s Testimony, Volume III – 1124, 7 [↑](#footnote-ref-345)
346. Ms. Xxxxxxxxx’s Testimony, Volume III – 1122, 22 [↑](#footnote-ref-346)
347. Ms. Xxxxxxxxx’s Testimony, Volume III – 1122, 15 [↑](#footnote-ref-347)
348. Ms. Xxxxxxxxx’s Testimony, Volume III – 1123, 1 [↑](#footnote-ref-348)
349. Ms. Xxxxxxxxx’s Testimony, Volume III – 1123, 9 [↑](#footnote-ref-349)
350. Ms. Xxxxxxxxx’s Testimony, Volume III – 1123, 11 [↑](#footnote-ref-350)
351. Ms. Xxxxxxxxx’s Testimony, Volume III – 1123, 14 [↑](#footnote-ref-351)
352. Ms. Xxxxxxxxx’s Testimony, Volume III – 1125, 2 [↑](#footnote-ref-352)
353. Ms. Xxxxxxxxx’s Testimony, Volume III – 1125, 11 [↑](#footnote-ref-353)
354. Parent’s Testimony, Volume III -1040, 15 [↑](#footnote-ref-354)
355. Parent’s Testimony, Volume III – 1041, 4 [↑](#footnote-ref-355)
356. SD-17 [↑](#footnote-ref-356)
357. SD-17 [↑](#footnote-ref-357)
358. Parent’s Testimony, Volume III – 1027, 24 [↑](#footnote-ref-358)
359. Parent’s Testimony, Volume III – 1028, 10 [↑](#footnote-ref-359)
360. Ms. Xxxxxxxxx’s Testimony, Volume III – 1126, 8 [↑](#footnote-ref-360)
361. Ms. Xxxxxxxxx’s Testimony, Volume III – 1126, 25 [↑](#footnote-ref-361)
362. Ms. Xxxxxxxxx’s Testimony, Volume III – 1128, 7 [↑](#footnote-ref-362)
363. Ms. Xxxxxxxxx’s Testimony, Volume III – 1128, 14 [↑](#footnote-ref-363)
364. Ms. Xxxxxxxxx’s Testimony, Volume III – 1129, 8 [↑](#footnote-ref-364)
365. Ms. Xxxxxxxxx’s Testimony, Volume III – 1129, 22 [↑](#footnote-ref-365)
366. SD-6 [↑](#footnote-ref-366)
367. Ms. Xxxxxxxxx’s Testimony, Volume III – 1135, 9 [↑](#footnote-ref-367)
368. SD-25 [↑](#footnote-ref-368)
369. Ms. Xxxxxxxxx’s Testimony, Volume III – 1147, 1 [↑](#footnote-ref-369)
370. Ms. Xxxxxxxxx’s Testimony, Volume III – 1149, 14 [↑](#footnote-ref-370)
371. SD-32, 38 [↑](#footnote-ref-371)
372. Ms. Xxxxxxxxx’s Testimony, Volume III – 1150 [↑](#footnote-ref-372)
373. Ms. Xxxxxxxxx’s Testimony, Volume III – 1152, 2 [↑](#footnote-ref-373)
374. Ms. Xxxxxxxxx’s Testimony, Volume III – 1153, 23 [↑](#footnote-ref-374)
375. Ms. Xxxxxxxxx’s Testimony, Volume III – 1154, 22 [↑](#footnote-ref-375)
376. Ms. Xxxxxxxxx’s Testimony, Volume III – 1155, 22 [↑](#footnote-ref-376)
377. Ms. Xxxxxxxxx’s Testimony, Volume III – 1156, 7 [↑](#footnote-ref-377)
378. Ms. Xxxxxxxxx’s Testimony, Volume III – 1156, 15 [↑](#footnote-ref-378)
379. SD -41 [↑](#footnote-ref-379)
380. Ms. Xxxxxxxxx’s Testimony, Volume III – 1157 [↑](#footnote-ref-380)
381. Ms. Xxxxxxxxx’s Testimony, Volume III – 1158 [↑](#footnote-ref-381)
382. SD -55 and SD-57 [↑](#footnote-ref-382)
383. Ms. Xxxxxxxxx’s Testimony, Volume III – 1176, 1 [↑](#footnote-ref-383)
384. Ms. Xxxxxxxxx’s Testimony, Volume III – 1176, 22 [↑](#footnote-ref-384)
385. Ms. Xxxxxxxxx’s Testimony, Volume III – 1177, 9 [↑](#footnote-ref-385)
386. Ms. Xxxxxxxxx’s Testimony, Volume III – 1177, 16 [↑](#footnote-ref-386)
387. Ms. Xxxxxxxxx’s Testimony, Volume III – 1178, 24 [↑](#footnote-ref-387)
388. Ms. Xxxxxxxxx’s Testimony, Volume III – 1179, 7 [↑](#footnote-ref-388)
389. Ms. Xxxxxxxxx’s Testimony, Volume III – 1182, 11 [↑](#footnote-ref-389)
390. Ms. Xxxxxxxxx’s Testimony, Volume III – 1183, 2 [↑](#footnote-ref-390)
391. Ms. Xxxxxxxxx’s Testimony, Volume III – 1183 [↑](#footnote-ref-391)
392. Ms. Xxxxxxxxx’s Testimony, Volume III – 1187 [↑](#footnote-ref-392)
393. Ms. Xxxxxxxxx’s Testimony, Volume III – 1190 [↑](#footnote-ref-393)
394. Ms. Xxxxxxxxx’s Testimony, Volume III – 1191, 19 [↑](#footnote-ref-394)
395. Ms. Xxxxxxxxx’s Testimony, Volume III – 1192 [↑](#footnote-ref-395)
396. Ms. Xxxxxxxxx’s Testimony, Volume III – 1195, 9 [↑](#footnote-ref-396)
397. Ms. Xxxxxxxxx’s Testimony, Volume III – 1198, 20 [↑](#footnote-ref-397)
398. Ms. Xxxxxxxxx’s Testimony, Volume III – 1203, 25 [↑](#footnote-ref-398)
399. Ms. Xxxxxxxxx’s Testimony, Volume III – 1204 [↑](#footnote-ref-399)
400. Ms. Xxxxxxxxx’s Testimony, Volume III – 1206, 12 [↑](#footnote-ref-400)
401. Ms. Xxxxxxxxx’s Testimony, Volume III – 1206, 16 [↑](#footnote-ref-401)
402. Ms. Xxxxxxxxx’s Testimony, Volume III – 1216, 23 [↑](#footnote-ref-402)
403. Ms. Xxxxxxxxx’s Testimony, Volume III – 1235, 7 [↑](#footnote-ref-403)
404. Ms. Xxxxxxxxx’s Testimony, Volume III – 12108, 4 [↑](#footnote-ref-404)
405. Ms. Xxxxxxxxx’s Testimony, Volume III – 1217, 11 [↑](#footnote-ref-405)
406. Ms. Xxxxxxxxx’s Testimony, Volume III – 1237, 18 [↑](#footnote-ref-406)
407. Ms. Xxxxxxxxx’s Testimony, Volume III – 1222, 7 [↑](#footnote-ref-407)
408. Ms. Xxxxxxxxx’s Testimony, Volume III – 1223, 25 [↑](#footnote-ref-408)
409. Ms. Xxxxxxxxx’s Testimony, Volume III – 1229, 17 [↑](#footnote-ref-409)
410. Ms. Xxxxxxxxx’s Testimony, Volume III – 1229, 22 [↑](#footnote-ref-410)
411. Ms. Xxxxxxxxx’s Testimony, Volume III – 1230, 1 [↑](#footnote-ref-411)
412. Ms. Xxxxxxxxx’s Testimony, Volume III – 1230, 21 [↑](#footnote-ref-412)
413. Ms. Xxxxxxxxx’s Testimony, Volume III – 1231, 14 [↑](#footnote-ref-413)
414. Ms. xxxxxxxx’s Testimony, Volume III – 1253, 13 [↑](#footnote-ref-414)
415. Ms. xxxxxxxx’s Testimony, Volume III – 1254, 20 [↑](#footnote-ref-415)
416. Ms. xxxxxxxx’s Testimony, Volume III – 1255, 1 [↑](#footnote-ref-416)
417. Ms. xxxxxxxx’s Testimony, Volume III – 1259 [↑](#footnote-ref-417)
418. SD-3, 5 [↑](#footnote-ref-418)
419. Ms. xxxxxxxx’s Testimony, Volume III – 1261, 17 [↑](#footnote-ref-419)
420. Ms. xxxxxxxx’s Testimony, Volume III – 1262, 8 [↑](#footnote-ref-420)
421. Ms. xxxxxxxx’s Testimony, Volume III – 1263, 1 [↑](#footnote-ref-421)
422. SD-32, 8 [↑](#footnote-ref-422)
423. Ms. xxxxxxxx’s Testimony, Volume III – 1263, 12 [↑](#footnote-ref-423)
424. SD-6, 4 [↑](#footnote-ref-424)
425. Ms. xxxxxxxx’s Testimony, Volume III – 1265, 14 [↑](#footnote-ref-425)
426. Ms. xxxxxxxx’s Testimony, Volume III – 1270, 3 [↑](#footnote-ref-426)
427. Ms. xxxxxxxx’s Testimony, Volume III – 1294, 9 [↑](#footnote-ref-427)
428. Ms. xxxxxxxx’s Testimony [↑](#footnote-ref-428)
429. Dr. Xxxxxxx’s Testimony, Volume IV – 1379, 2 [↑](#footnote-ref-429)
430. Dr. Xxxxxxx’s Testimony, Volume IV – 1379, 9 [↑](#footnote-ref-430)
431. Dr. Xxxxxxx’s Testimony, Volume IV – 1379, 13 [↑](#footnote-ref-431)
432. Dr. Xxxxxxx’s Testimony, Volume IV – 1379, 23 [↑](#footnote-ref-432)
433. Dr. Xxxxxxx’s Testimony, Volume IV – 1380, 1 [↑](#footnote-ref-433)
434. Dr. Xxxxxxx’s Testimony, Volume IV – 1380, 20 [↑](#footnote-ref-434)
435. Dr. Xxxxxxx’s Testimony, Volume IV – 1385, 23 [↑](#footnote-ref-435)
436. SD- 11 [↑](#footnote-ref-436)
437. Dr. Xxxxxxx’s Testimony, Volume IV – 1391, 10 [↑](#footnote-ref-437)
438. SD-17 [↑](#footnote-ref-438)
439. Dr. Xxxxxxx’s Testimony, Volume IV – 1396, 19 [↑](#footnote-ref-439)
440. SD-28 [↑](#footnote-ref-440)
441. Dr. Xxxxxxx’s Testimony, Volume IV – 1403, 7 [↑](#footnote-ref-441)
442. Dr. Xxxxxxx’s Testimony, Volume IV –1404, 1 [↑](#footnote-ref-442)
443. Dr. Xxxxxxx’s Testimony, Volume IV – 1404, 13 [↑](#footnote-ref-443)
444. Dr. Xxxxxxx’s Testimony, Volume IV – 1405, 20 [↑](#footnote-ref-444)
445. SD -37 [↑](#footnote-ref-445)
446. Dr. Xxxxxxx’s Testimony, Volume IV – 1407, 13 [↑](#footnote-ref-446)
447. SD-38 [↑](#footnote-ref-447)
448. Dr. Xxxxxxx’s Testimony, Volume IV – 1407, 21 [↑](#footnote-ref-448)
449. SD-38 [↑](#footnote-ref-449)
450. Dr. Xxxxxxx’s Testimony, Volume IV – 1409, 11 [↑](#footnote-ref-450)
451. Mr. Xxxxxxx’s Testimony [↑](#footnote-ref-451)
452. SD-39 [↑](#footnote-ref-452)
453. Dr. Xxxxxxx’s Testimony, Volume IV – 1410, 11 [↑](#footnote-ref-453)
454. Dr. Xxxxxxx’s Testimony, Volume IV – 1411, 5 [↑](#footnote-ref-454)
455. Dr. Xxxxxxx’s Testimony, Volume IV – 1411, 18 [↑](#footnote-ref-455)
456. Dr. Xxxxxxx’s Testimony, Volume IV – 1412, 11 [↑](#footnote-ref-456)
457. Dr. Xxxxxxx’s Testimony, Volume IV – 1415, 24 [↑](#footnote-ref-457)
458. Dr. Xxxxxxx’s Testimony [↑](#footnote-ref-458)
459. Mr. Millward’s Testimony [↑](#footnote-ref-459)
460. Mr. Millward’s Testimony [↑](#footnote-ref-460)
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463. Mr. Millward’s Testimony [↑](#footnote-ref-463)
464. Mr. Millward’s Testimony [↑](#footnote-ref-464)