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8 **BEFORE THE STATE OF NEVADA**

9 **DUE PROCESS HEARING FOR KRISTIN MARIE NICHOLAS**
10

11 _____
12 JAYNE NICHOLAS (“PARENT”) ON
13 BEHALF OF KRISTIN MARIE NICHOLAS
14 STUDENT

15 Petitioner,

Case No. TBD

16 **DUE PROCESS COMPLAINT AND**
17 **REQUEST FOR OPEN HEARING**

18 DOUGLAS COUNTY SCHOOL DISTRICT
19 FRANKIE ALVARADO, SUPERINTENDENT

20 Respondent.
21 _____/

22 SPECIAL EDUCATION DUE PROCESS COMPLAINT NOTICE; 20 U.S.C SECTION
23 1415 (b) (7) (A). To: Douglas County School District (hereafter referred to as “District” and/or
24 Respondent(s)). Conforming copy served on: Douglas County School District; Frankie Alvarado,
Superintendent.

25 **This is to notify the District and School that a due process complaint has been**
26 **lodged with the State of Nevada against you. Further, we will be requesting that the**
27 **hearing take place in an “open forum” at the earliest (non-expedited) date pursuant to**
28 **settling all disputes, stated and implied in this complaint. A proof of service is attached**
and is incorporated by reference.

1 Parent : Jayne Nicholas (“Parent”)
2 Student: Kristin Marie Nicholas (“Student”)
3
4 Age: 10-years old
5 Gender: Female
6
7 School: Zephyr Cove Elementary
8 Telephone: 775-561-6338
9
10

11 JURISDICTION

12 Student lives with mother (half-time) at: 4673 Cape Horn Rd, South Lake
13 Tahoe, California. At all times relevant, Student has lived within the legal boundaries of
14 the School and District. Therefore, the Respondent has been properly named and served. After
15 service to the Respondent, this complaint has been properly filed and served on the Nevada
16 Department of Education at their offices located in Carson City, Nevada. As all matters pled in
17 this Complaint are subject to the Individuals with Disabilities Education Act (“IDEA”), they
18 necessarily lie within the jurisdiction and legal domain of the Nevada Department of Education.
19
20

21 PARENT STATEMENT & BACKGROUND INFORMATION

22 My daughter Kristin is a beautiful, kind, creative, and moderately autistic 10-year-old girl
23 who wants to learn and be a part of every joy life has to offer. She is the most important thing in
24 my life which is why I am concerned that she is falling further and further behind at school,
25 despite having an Individualized Education Program (IEP) and so-called specialized education
26 plan that should be designed to address her disabilities and delays, and the deficits that are
27
28

1 manifested by those disabilities. Like all moms, I have hopes and dreams for Kristin. At the
2 very least, I want to know that she can live her life as independently as possible with an
3 appropriate measure of success given her knowledge, skills and abilities.
4

5 However, as it stands today, she is a 5th grader who is reading, writing, and calculating at
6 a 1st grade level. Without an immediate intervention, my daughter will continue to fail to read,
7 write and calculate within a lightyear of her chronological peers. This bears repeating, unless my
8 daughter can receive an appropriate education as guaranteed by law, she will continue to fail in
9 school, and in turn, fail in life.
10

11 When Kristin was enrolled in the District, I thought the District would allow me to
12 participate in my own daughter's special education. However, at every turn (the last five IEP
13 meetings) the District has marginalized me and ignored me to the point that no reasonable person
14 could possibly believe I was able to participate in my daughter's specially designed education in
15 any meaningful way.
16
17

18 I believed that the District had to listen, and would listen, to my opinions and my worries
19 and concerns at IEP meetings. I believed I would be able to discuss and deliberate my opinions,
20 worries and concerns for my child with the "team" before critical decisions were made regarding
21 Kristin's "specially-designed" education.
22

23 I assumed that Kristin's IEP services and supports would be followed with the kind of
24 legal fidelity demanded by the Individuals with Disabilities Education Act (IDEA). I believed
25 that Kristin's IEP would offer Kristin a measurable educational benefit. I thought
26 Kristin's baselines would be measures of what she can do or what she knows. I thought that
27 Kristin's goals would be legally and logically linked to her baselines. I thought that her goals
28

1 would be objective, sensible, reasonable, measurable and timely according to Endrew F. v.
2 Douglas County expectations and mandates. I thought that the IDEA requires the District to
3 develop a clearly written IEP with offers that parents can reasonably understand. So much for
4 reasonable expectations, assumptions and trust. So much for the law. I have found that the
5 District does what they want, when they want, regardless of the consequences to the student or
6 parent.
7

8
9 However, I have been told that the perquisites of special education administrators does
10 not include the gratuitous perversion of IDEA for the District's administrative convenience. The
11 fact is, this District's IEPs are all pre-determined prior to the very first IEP because that's all
12 they're selling. It is a one-size-fits-all, everyone's included, so-called inclusion program in
13 which all special education students are crowbarred into a pre-determined placement under a
14 fact-deficient, unfiltered stream of knowingly false assertions and convenient fictions.
15

16
17 After doing some research into the way the District "does business," I found a partial
18 answer on the District's official website (www.dcsd.net) and have included that evidence as
19 "Exhibit A" attached hereto, which speaks for itself.

20 As anyone can see, Douglas County School District does not have a special education
21 department or program. If you go to the programs tab at the top of the District's
22 website you will find: Adult Education; after and Before School Programs; Career and
23 Technical Education; Partners Across the Community; and Summer School. That's it,
nothing about Special Education.

24 Conspicuously absent from the District's website is anything to do with Special
25 Education. In fact, the two words "Special Education" do not exist on anything that a
26 parent looking for information for their special needs child could possibly find. The fact
27 of the matter is these folks have a zero-commitment to special education or the IDEA.
They just do not care about their special education population or the state and federal
28 laws that protect special needs students.

1 This can't be possible, right? They can't just exempt themselves from state and federal
2 laws, right? So, you keep looking at their official website until you find at the top of
3 their home page that is labeled "Departments." After all, special education is almost
4 always listed as a department; however, it is not there either. In some cases, special
5 education is listed under the title of Educational Services, however, when you click on
6 that link you get: Curriculum and Instruction, Family Life and Sex Ed; Graduation
7 Requirements; State Assessments. Nothing on that link contains any information about
8 special education with the exception of false and deliberately deceptive information
9 regarding Child Find.

10 To add insult to injury, when you look at the bottom of the page labeled "Inclusive
11 Education" (whatever that is), you find a gross and deliberate misinterpretation of Child Find
12 that some might call intentional fraud. I don't believe for a second that Jeannette Dwyer,
13 "Director", does not know the statutory definition of Child Find. Yet, and still, they lie, they
14 deceive, they obfuscate and try to confuse parents (just like me) who are just trying to get some
15 help for their disabled child; the help that they are legally entitled to.

16 **I am reliably informed that Child Find is a legal requirement under the Individuals**
17 **with Disabilities Education Act (IDEA) which mandates states to identify, locate, and**
18 **evaluate all children with disabilities who are in need of special education and related**
19 **services."**

20 **Key points of Child Find under IDEA are:**

21 **Proactive identification: Schools and school districts must actively seek out**
22 **children who may have disabilities. This includes children who are not yet in**
23 **school, those in private schools, and those who are homeschooled.**

24 **Timely Evaluation: Once a child is identified as potentially having a disability, the**
25 **school district must conduct a full and individual evaluation to determine if the**
26 **child qualifies for special education services.**

1 **Eligibility Determination:** If a child is found eligible for special education services,
2 an Individualized Education Program (IEP) must be developed to address the
3 child's unique needs.

4 **Ongoing Responsibility:** Child Find is an ongoing process. Schools must
5 continuously work to identify children who may develop disabilities or who may
6 have disabilities that were previously unidentified.

7 **Parental Involvement:** Parents play a crucial role in the Child Find process. They
8 can request an evaluation if they suspect their child has a disability. Schools must
9 obtain parental consent before conducting an evaluation.

10 **Public Awareness:** School districts are required to engage in public awareness
11 campaigns to inform the community about Child Find, including how to request an
12 evaluation.

13 **Legal Requirements:** Failure to comply with Child Find can result in legal action
14 against the school district. Parents have a right to due process if they believe that
15 the school district has not fulfilled its Child Find obligations.

16 **In sum:** Child Find under IDEA ensures that all children with disabilities,
17 regardless of their circumstances, are identified and provided with the necessary
18 evaluations and services to support their educational needs.

19 Under IDEA, you can qualify if your child meets the criteria for one or more of
20 the 13 recognized disability categories, which include:

- | | |
|----------------------------|--|
| 21 Autism | Speech or Language Impairment |
| 22 Deafness | Traumatic Brain Injury |
| 23 Deaf-Blindness | Visual Impairment, including blindness |
| 24 Emotional Disturbance | Other Health Impaired |
| 25 Hearing Impairment | Specific Learning Disability |
| 26 Intellectual Disability | |
| 27 Multiple Disabilities | |
| 28 Orthopedic Impairment | |

Now, compare Douglas County School District's fraudulent interpretation of Child Find
that they have the audacity to publish and promote on their official website:

1 **“Free Developmental Screening for children ages 3-5 who reside in Douglas County**
2 **and are not currently enrolled in kindergarten.”**

3 This statement would tell any parent that the school district’s responsibilities for
4 screening start and end with children that are 3, 4 or 5 years of age. However,
5 they must know to a certainty that the vast majority of students who are made
6 eligible for special education are made eligible after the age of 5.

7 Note also that the District is restricting its Child Find list to Speech and Language
8 skills; Cognitive skills; Social/ Emotional skills; and, Fine/gross motor skills.
9 First and foremost, Child Find is all about locating and assisting students with
10 delays and deficits. Using the word “skills” in this publication is intensely odd
11 and cannot be found anywhere else in the world of special education. Then again,
12 it appears that to this District, the words special education have no meaning
13 except in the sense that every effort should be made to never say those words as
14 they may only encourage parents to seek help for their child. Help they are
15 entitled to under IDEA.

16 Lastly, in 8-point type (nearly invisible print) the District published the following:

17 “If you have concerns regarding your preschooler’s development or suspect a
18 developmental delay, please contact DCSD Office of Inclusive Education to begin
19 the screening process.” (sic)

20 Note again the language they use: “Regarding your preschooler’s
21 development”. Whereas, Child Find requires school districts to actively look for
22 children who may be eligible from the age of 3 until they age-out at 22-years
23 of age. Also note, that they are calling themselves “Inclusionists” not special
24 education teachers and administrators. Inclusionist is a made up word to
25 confuse and limit the District’s responsibility to Child Find.

26 I must ask Qui Bono? “Who benefits” by conflating, obfuscating and confusing a child’s
27 rights under IDEA? Only the District, it appears. If you have a universally inclusive
28 educational system you can’t have a special education system, as everyone is in a general
education and is therefore included. How does this benefit the District? Answer: They don’t
have to hire expensive and hard-to-find special education teachers, reading specialists,
psychologists, and assistive technology experts. The bottom line: It appears to me, and the

1 experts at Closson Group, that it is the explicit intent of the District to save money by the illegal
2 diversion of District funding from mandated special education services in favor of higher
3 compensation for administrators and staff.
4

5 On a personal and very emotional parent level, I want everyone to know that Jeanette
6 Dwyer, architect of the District's forced inclusion program, has given herself the invented title of
7 "Director of Inclusive Education" and she has attended the last four IEP meetings for my
8 daughter. She rants, raves, answers questions that were asked of other team members and makes
9 sure my participation in those meetings is impossible. She is a straight-up bully who runs the
10 meetings like well-rehearsed performance art that swings between strategic ambiguity and the
11 narrative that useful IEPs are mythical objects conjured out of unobtainium.
12
13

14 I truly believe that her pooled good faith efforts to support children with special needs couldn't
15 fill a teaspoon. She has single handily turned what should have been collegial IEP meetings into
16 a gut-wrenching exercise in frustration and futility.
17

18 I want the hearing officer to know that I believe these are not innocent mistakes made by
19 well-meaning professionals. As we all know, repeated mistakes are not mistakes at all. Here, in
20 this case, these "mistakes" are clearly by design. Their predatory policies present a pattern,
21 practice, and course of conduct by the District that evinces school officials who do not value
22 special education, so they do everything in their power to avoid it.
23
24

25 The un-slurred state of reality is their negligence, incompetence, fraud and deliberate
26 indifference has made my daughter's so-called special education a very painful joke. They have
27 damaged my daughter, they have damaged me, and I want it stopped...here and now. I look
28

1 forward to the opportunity to prove in an open public forum that the District is systematically
2 attempting to disenfranchise disabled students from their rights under IDEA because the District
3 can save money that can be spent elsewhere and not wasted on “damaged kids”. That is their
4 attitude, that is their perspective, and it is abundantly clear that they have adopted a pathological
5 approach to their responsibilities that doesn’t allow them to even utter the words “special
6 education.” As a result, the District produces “zombie” IEPs that do nothing because they say
7 nothing. Given these things, all IEPs generated by the District (including my daughter’s) are
8 incomplete, incoherent and offer no measurable benefit or value. The District’s acts and
9 omissions and their smoke-and-mirrors approach to educating special needs students has no
10 doubt left a path of broken dreams and broken hearts, and hundreds of children with extremely
11 limited futures. I want the District to know that with the help of Closson Group
12 (stanfordiep.com) and their attorneys, I will not rest until the District is brought to heel.

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16 **Nature of the Problem (Issues and facts):**

- 17 1. During the 2021-2024 school years, did the District deny Student a free appropriate
18 public education (FAPE) by not appropriately testing and evaluating Student.

19 *“Every school district is required to actively and systematically seek out, identify,*
20 *locate, and evaluate all children who are in need of special education and related*
21 *services, regardless of the severity of the disability, including those students who*
22 *are successfully advancing from grade to grade.”*

23 Evidence will show that the District does not have a real Child Find plan,
24 nor are they actively looking for students who reside within their sphere of
25 influence who may need special education services. Evidence will show that
26 when parents bring their suspicions to the District (that their child may have need
27 of specially designed education) they are ignored by the District with complete
28

1 impunity. In some cases, where parents are particularly persistent in their efforts
2 to get the District's attention in these matters, parents are retaliated against.

3 Here, the District was put on notice that Kristin has both attention
4 disabilities, as well as specific learning disabilities that need to be evaluated and
5 treated. The District's response to my daughter's case is not unlike a number of
6 similarly situated students. The District chooses to ignore their legal
7 responsibilities to students with special needs in the hopes that her parents would
8 just give-up and go away. The District has a long history of ignoring parents and
9 their special needs students to the point that failure of one stripe or another
10 becomes an absolute certainty.

11 The District has failed, is failing, and will continue to fail to evaluate
12 Kristin for dyslexia, dysgraphia and dyscalculia and attention issues (ADD)
13 unless a hearing officer compels the District to do so. From what the Parent and
14 her experts understand, the District has adopted a policy of non-evaluation of
15 special education students with Specific Learning Disorders because evaluations
16 are too difficult and too costly. This is not an isolated incident. It is a well-
17 established pattern and practice of the District. This Student (in fact all students)
18 must be assessed in all areas related to the suspected disability including, where
19 appropriate, health and development, vision, hearing, motor abilities, language
20 function, general ability, academic performance and self-help. Federal
21 regulations make it abundantly clear that the evaluation must be "sufficiently
22 comprehensive to identify all of the child's special education and related service's
23 needs, whether or not commonly linked to the disability category of the child."

24 *[34 C.F.R. Section 300.11].*

25 Here, the District did none of these things. They just ignore the Parent's
26 request by sending unlawful Prior Written Notice(s) ("PWN"). However, the law
27 is clear: "No determination of ineligibility for special education can be made
28 without an evaluation.

[20 U.S.C. Section 1414 ((5); 34 C.F.R. Section 300.305 (e) (1).]

1 Just because someone at the District determines, without appropriate and
2 legal testing, assessment and evaluation, that they believe the student’s
3 “difficulties” are “not severe enough” or “too restrictive” (whatever that means),
4 they think that they can unilaterally determine whether or not testing should or
5 should not be conducted. This is more than just magical thinking, bad table
6 manners or a great way to save money. It is illegal on its face. This is nothing
7 more (and nothing less) than the District’s ham-handed attempt to bamboozle
8 parents into believing they have no rights in these matters. As a parent, I have a
9 right to know what, if any, disabilities my child has to a legal certainty. I have a
10 right to know if those disabilities can be rehabilitated. I have a right to know if
11 my child’s disabilities will enable my child to be successful in higher education or
12 in the world of work. Given the District’s inability or unwillingness to test, assess
13 and evaluate my child for special education eligibility, they have denied her a
14 specifically designed education (IEP) and a FAPE.

15 *The Parent’s statement listed above is incorporated by reference into this*
16 *complaint’s issues, facts and resolutions.*

17 **ISSUES**

18 **Denial of Free Appropriate Public Education 2021-2024 against the District and**
19 **School.**

20
21 **Nature of the Problem and Statements of Fact(s):**

22 During the 2021-2024 school years, did the District deny the Student a free appropriate
23 public education (FAPE) by:

24 A. Did the District fail to “identify, locate and evaluate” the Student (and other
25 special education students) in the District in a timely fashion pursuant to their
26 legal obligations under Child Find?

27 *In point of fact, the District does not have a legal process or plan to*
28 *locate, identify, or refer any struggling student for special education*

1 *eligibility. Child Find requires school districts to have a process for*
2 *identifying and evaluating, and re-evaluating if necessary, children who*
3 *need special education and related services appropriate to their*
4 *disabilities and their unique needs. Here, Parent has been trying over*
5 *the last 36-months to get the District to properly test Kristin for attention*
6 *disabilities (ADD), as well as dyslexia, dysgraphia, and dyscalculia.*
7 *Additionally, Parent has repeatedly requested that the District conduct*
8 *an Assistive Technology assessment and the record is replete with*
9 *statements by District employees that technology should play a vital role*
10 *in Kristin’s education.*

11 *The District has refused, and continues to refuse, to give Kristin critical*
12 *assessments and evaluations pursuant to her inability to read, write or*
13 *calculate at or anywhere near grade level. We suspect that she may have*
14 *dyslexia, dysgraphia and/or dyscalculia. We do not know for sure*
15 *because the District refuses to test and assess her for all suspected*
16 *disabilities. The District knew all these things from the beginning,*
17 *however, they sat on their hands and did absolutely nothing. As it*
18 *stands today, there has been no educational benefit whatsoever to*
19 *Student’s so-called special education program. Kristin has failed, is*
20 *failing, and will continue to fail until the District can address all these*
21 *issues by appropriate testing, assessment and evaluation and can offer*
22 *her a specialized education that has value.*

23 B. Did the District negligently or deliberately ignore Parent’s written or verbal
24 requests for special education eligibility and assessments throughout 2021- 2024?

25 *Yes, the District has negligently or deliberately ignored Parent’s*
26 *repeated requests (demands) to have Kristin tested for all disabilities.*
27 *Parent’s requests are a matter of written and audio-taped record.*

28 C. Did the District fail to provide Prior Written Notice (“PWN”) regarding the
District’s refusal to initiate a Parent requested evaluation of a suspected Student
disability?

Among other things, the District is required to give Parent(s) a written
notice when it refuses to begin or change the identification, evaluations,
or educational placement of her child. Here, the Parent has repeatedly
asked for assessments and evaluations that were related to Student’s

1 *inability to read, write or calculate. To this day, the District has been*
2 *unable or unwilling to give Parent a timely PWN regarding any of the*
3 *Parent's requests that meets federal standards. In short, they have*
4 *refused to do adequate testing and assessments and have refused to offer*
5 *Parent good reasons why.*

6 D. Did the District fail to offer Parent meaningful participation in the
7 development of Student's IEP?

8 *The cornerstone of the IEP process is the active and meaningful*
9 *participation of parents in the development and implementation of their*
10 *own child's IEP. However, there is no evidence that the District ever*
11 *considered the Parent's suggestions, ideas, requests or demands over the*
12 *last three years. There is a mountain of evidence that suggests that the*
13 *District completely ignored the Parent's participation in the Student's*
14 *IEP meetings. The vast majority of evidence that the District ignored*
15 *the Parent's involvement in the IEP process is in written form or*
16 *captured on audio-recordings.*

17 E. Did the District fail to allow Parent meaningful participation, as a member of
18 the IEP team, throughout the 2021-2024 school years by refusing to provide Parent
19 with the critical information they needed to make informed decisions regarding the
20 depth and breadth of the Student's disabilities, thus depriving the Parent of their
21 ability and right to give their informed consent to any matter involving the IEP?

22 *The Parent (all parents) need proper, appropriate and timely*
23 *information if they are expected to make informed decisions about their*
24 *children in IEP meetings. The District has been continuously unable or*
25 *unwilling to offer Parent any such timely information. Their inability or*
26 *unwillingness to do so has rendered Kristin's special education*
27 *valueless. Her IEP has never been appropriate; therefore, a FAPE is an*
28 *impossibility.*

29 F. Did the District "predetermine" the outcome of Student's IEPs throughout the
30 2021-2024 school years, before the team meetings were held and in the absence of
31 Parent?

1 *There is no evidence that the District ever seriously considered*
2 *any of this Parent’s input in IEP meetings over the last five IEP*
3 *meetings. All IEP meetings conducted without the Parent’s ability to*
4 *ask questions or have the team discuss and deliberate Parent’s ideas,*
5 *concerns and worries insured nothing of any value could possibly get*
6 *done. The team, led by the District’s staff, concealed, confused and*
7 *obfuscated the real issues and allowed Kristin to be abandoned by the*
8 *very people who are legally and morally obliged to help her.*

9 G. Did the District know, or should they have known, that after 2020 the Student
10 had other disabilities that should have been addressed and included in her IEP?

11 *Parent suspects Kristin has dyslexia, dysgraphia and/or dyscalculia.*
12 *Kristin may also have an attention deficit disorder. However, the*
13 *District refuses to test or assess in these areas. All IEPs were presented*
14 *as an “Afait Acompli”. Nothing ever changed from the draft IEPs, to*
15 *the final IEPs, the District were the ones who presented all IEP drafts.*

16 H. From 2021-2024, did the District deny Student a FAPE because the District in
17 their offerings of a FAPE did not identify Student’s unique needs in the areas of
18 reading, writing, calculation, vocabulary, spelling or speaking. Further, did the
19 District deny Student a FAPE by not including annual goals addressing Student’s
20 unique needs in the areas of behavior, reading, writing and math?

21 *The Student has unique needs that were repeatedly documented in*
22 *progress reports and teacher and administrator notes and statements.*
23 *Notwithstanding overwhelming facts that the Student’s inability to read,*
24 *write or calculate was impeding her ability to learn and access the*
25 *curriculum, no help or even consideration of help has ever been offered.*

26 I. Did the District repeatedly fail to satisfy Federal/State Child Find duties by
27 failing to assess Student for all disabilities from 2021–2024?

28 *The District has a responsibility to assess for all suspected disabilities.*
The District has had a wealth of information that would suggest to any
reasonable educational administrator that Kristin may have dyslexia,
dysgraphia and dyscalculia.

1 ***Once these suspected disabilities were brought to the District's***
2 ***attention, they have an obligation to test, assess and evaluate timely.***

3
4 J. From 2021-2024, did the District fail to offer Student an appropriate IEP that
5 addressed her social-emotional needs and/or academic and safety issues?

6 ***The District has never considered the Student's social-emotional***
7 ***needs.***

8 K. From 2021-2024, did the District fail to develop an IEP that contained
9 appropriate, objective and measurable goals, that were related to Student's unique
10 academic and functional needs?

11 ***Their actions and reactions to the Student and the Parent seemed to***
12 ***be aimed at driving her out of their school and District. What the***
13 ***District has done appears to be nothing more and nothing less***
14 ***than retaliation for Parent's complaints about the lack of assessments,***
15 ***tests, evaluations, services and supports for her daughter. All goals,***
16 ***including all academic goals, are fatally flawed as they are subjective,***
17 ***un-measurable and cannot be legally linked to her baselines.***

18 L. Did any of the District's IEPs (offerings of FAPE) contemplate Endrew F. v.
19 Douglas County regarding Student's meaningful academic progress?

20 ***On March 22, 2017, The United States Supreme Court ruled that***
21 ***students with disabilities are entitled to meaningful academic progress.***
22 ***In Endrew the Court ruled (8-0) that any school that was expected to***
23 ***meet their substantive obligations under IDEA must offer an IEP,***
24 ***reasonably calculated to enable a child to make progress appropriate in***
25 ***light of the child's circumstances. Here, the case of Endrew F. never***
26 ***came up. Here, the letter and spirit of the law was completely ignored.***

27 M. Did the District fail to offer Parent an appropriate continuum of placement
28 options during the 2021-2024 school years?

Contrary to the District's legal obligation to do so, the District never
gave the Parent a continuum of placement options.

1 *Full inclusion with an aide is the only thing that was offered; it was a*
2 *take it or leave it mandate.*

3
4 N. Did the District unilaterally and unlawfully determine (on their own) that an
5 Extended School Year (“ESY”) was not necessary for the Student without
6 properly considering all the legal elements that must be considered before ESY
7 can be granted or denied?

8 *Although the Student is failing and falling further and further*
9 *behind, the District never gave the Parent any information regarding*
10 *what an appropriate and legal ESY should look like. Until very recently,*
11 *it was not offered at all.*

12 O. Did the District fail to develop appropriate baselines (PLOPs) or goals for
13 Student in her IEP pertaining to academics, functionality and behavior?

14 *The District did none of these things. No tests; No assessments;*
15 *No plans; No goals; No nothing. None of Kristin’s goals were legally*
16 *linked to her baselines or services and supports. The heart of IDEA is*
17 *the IEP itself. The heart of an IEP are the baselines and goals set out*
18 *in that IEP. Here, the IEP is worthless because there are no baselines*
19 *or appropriate goals. We cannot know where she is going until we can*
20 *properly assess what she knows or what she can do now.*

21 P. After repeated requests by the Parent did the District fail to provide an
22 Assistive Technology Assessment? Did the District fail to offer Kristin the kind
23 of intensive speech services that would show progress Nin her unique speech
24 delays?

25 *The District failed to do anything notwithstanding the fact that an*
26 *assistive technology assessment would benefit her pursuant to*
27 *speech/communication and specific learning needs. Further, the*
28 *District never sent the Parent an appropriate and legal Prior Written*
Notice to explain why they refused such a request.

The District never offered Kristin appropriate services and support for
her speech delays and communication deficiencies.

1 Q. Did the District fail to offer a special education that had any benefit for
2 Kristin in 2021- 2024?

3 *Nothing was offered to Kristin that had any value or educational benefit.*
4 *In Endrew F., the Court ruled (8-0) that any school that was expected to*
5 *meet their substantive obligations under IDEA must offer an IEP that is*
6 *reasonably calculated to enable a child to make progress appropriate in*
7 *light of the child's circumstances. Here, Kristin is not making any real*
8 *progress with her ability to read, write or calculate. If anything, the*
9 *District has gone in the opposite direction by their statements that evince*
10 *the soft bigotry of low expectations.*

11 R. Did the District deliberately cut Kristin's one-on-one dedicated behavioral
12 and academic aide by 50% without Jayne Nicholas' notice, consent or
13 receipt of a Prior Written Notice ("PWN") before making this radical and
14 completely inappropriate change to Kristin's IEP?

15 *Yes, on the second week of this school year the District removed my*
16 *daughter's behavior and academic aide without notice or permission.*
17 *They never bothered to call an IEP meeting nor did they send me an*
18 *appropriate Prior Written Notice.*

19 *Cutting my daughter's aide time has significant impacts on*
20 *her educational and emotional well-being, particularly given her*
21 *needs as a 10-year-old autistic child who benefits from one-on-*
22 *one behavioral and academic support. Impacts include:*

23 *The reduction in aide time will hinder her ability to access the*
24 *curriculum effectively. An aide often helps bridge the gap*
25 *between the child's needs and the school's academic*
26 *expectations, providing individualized instruction, modifying*
27 *lessons, and ensuring comprehension. Without adequate support,*
28 *my daughter may struggle to keep up with her peers, particularly*
in areas that require personalized attention.

Her aide provides important behavioral support, including de-escalation
strategies, sensory breaks, and prompts to maintain focus. With less aide
support, my daughter might find it difficult to manage behaviors that
typically require intervention. This can result in more frequent
disruptions and missed learning opportunities.

1 *The reduction in support can cause anxiety and frustration in my*
2 *daughter. The sudden change in routine might be particularly*
3 *challenging, as children with autism often benefit from predictability*
4 *and consistency. Without the familiar aide's guidance, she might feel*
5 *overwhelmed in challenging situations, leading to increased stress and*
6 *reduced confidence.*

7 *This particular aide also plays a role in supporting social interactions by*
8 *facilitating communication with peers and helping a child navigate*
9 *social settings. A reduction in aide time may result in missed*
10 *opportunities for meaningful social engagement, which is critical for*
11 *her social development*

12 *Further, my daughter has specific IEP goals that require one-on-one*
13 *support, reducing the aide time may impede her progress toward those*
14 *goals. This could result in delays in achieving important developmental*
15 *milestones, impacting both short-term and long-term outcomes.*

16 *Cutting my daughter's aide time without careful consideration and*
17 *proper planning risks negatively affecting her ability to learn, regulate*
18 *her behavior, and interact socially, all of which are key components of*
19 *her growth and education. It is crucial to address these concerns in an*
20 *IEP meeting with the school, where the team can evaluate how these*
21 *changes impact Kristin and make any necessary adjustments.*

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S. Did the District collude and conspire with Kristin's father, an employee of the District, to rubber stamp anything the District proposed in Kristin's IEPs notwithstanding the fact that such a conspiracy was not in the best interests of the child?

Yes, the District did collude and conspire with Kristin's father to do anything the District wanted to do without the mother's involvement.

When a school district conspires with one parent over the other, agreeing with everything the district proposes, it leads to a violation of the parent who has equal educational rights under the Individuals with Disabilities Education Act (IDEA) and disagrees with many of the District's proposals. IDEA guarantees parental participation in the development of a child's Individualized Education Program (IEP), and both parents are entitled to be involved in the decision-making process, unless a court order limits one parent's rights.

1 *If the district and one parent make decisions without involving the other,*
2 *it may constitute a denial of the right to meaningful parental*
3 *participation, which are grounds for filing a due process complaint.*
4 *Courts and hearing officers have found that preventing or limiting the*
5 *involvement of one parent, especially if that parent's rights have not*
6 *been restricted by a court order, can lead to procedural violations that*
7 *impact the appropriateness of the educational program provided to the*
8 *child.*

9 *Other examples of the District's favoritism towards the father include,*
10 *but are certainly not limited to:*

11 *A. The father can go on campus anytime he is moved to do so;*

12 *B. Once on campus he can stay as long as he wants;*

13 *Whereas, the mother may not stay on campus and if she would*
14 *like to observe her child in class she is limited to one-hour only.*

15 *In one noteworthy incident, the father removed the child's*
16 *mother from the emergency card and substituted his most recent*
17 *girlfriend on the emergency card instead. The District knew of*
18 *these things and allowed it to happen.*

19 T. Did the aforementioned conspiracy and obvious bias impede Jayne Nicholas
20 from fully participating in her daughter's IEPs ?

21 *Yes, the overt favoritism of the father (District employee) over the*
22 *mother was a constant staple of each and every IEP meeting where the*
23 *District favored the father's input over the mother's violates the parental*
24 *participation requirements found in 20 U.S.C. § 1414(d)(1)(B) of IDEA,*
25 *and its corresponding regulations at 34 C.F.R. § 300.322.*

26 *Specifically:*

27 *20 U.S.C. § 1414(d)(1)(B): This section of IDEA ensures that the*
28 *parents of a child with a disability are part of the IEP team that develops*
the Individualized Education Program for the child. Both parents have
the right to participate equally.

34 C.F.R. § 300.322: This regulation mandates that schools must ensure
that parents have the opportunity to participate in IEP meetings and that

1 *both parents are given notice of and encouraged to participate in these*
2 *meetings. Giving preferential treatment to one parent over the other*
3 *compromises this requirement and impedes the mother's ability to*
4 *contribute meaningfully to the decision-making process.*

5 *Here, focusing more on one parent's views and disregarding the other's*
6 *input infringes on these statutory and regulatory requirements, thereby*
7 *undermining the collaborative process intended by IDEA to serve the*
8 *child's best interests. As a practical matter, aside from violating*
9 *parental participation rights, it yields a lack of a balanced perspective*
10 *that leads to inappropriate educational decisions not to mention*
11 *undermine trust in the IEP team to the point the parent just gives-up*
12 *and disengages from the process altogether. The District's position has*
13 *been to completely ignore the mother's requests for discussion,*
14 *deliberation or collaboration. It will be clear from the evidence given at*
15 *hearing that the District just did not want the mother to be a part of her*
16 *own child's IEP and did everything in their power to isolate and ignore*
17 *the mother hoping that she would just go away.*

18 *Office of Civil Rights Complaint:*

19 *Although much of the discrimination and retaliation is outside the*
20 *statutory scheme of IDEA, it is on point for a complaint to the Office of*
21 *Civil Rights. To wit*

22 *Despite Jayne Nicholas' repeated requests, the school has refused to*
23 *allow her to participate meaningfully in her daughter's Individualized*
24 *Education Program meetings. As a parent, she is entitled to be an active*
25 *participant in the educational decision-making process for her child, in*
26 *accordance with the Individuals with Disabilities Education Act (IDEA)*
27 *and Section 504 of the Rehabilitation Act of 1973. By excluding her, the*
28 *school has violated her federally protected rights.*

When Jayne raised concerns about her exclusion as an active
participant in these meetings, the school engaged in retaliatory actions,
which created a hostile and adversarial environment. This retaliation
has affected Jayne's ability to advocate effectively for her daughter's
educational needs, further compromising her right to a free and
appropriate public education (FAPE).

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2 **Proposed Resolution of the Problem:**

- 3 1. Student seeks declaratory relief that the Respondents denied Student a free
4 appropriate public education from 2021-2024;
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6 2. The Respondents and their agents and employees responsible for the District’s breach
7 of the Student’s FAPE be ordered to participate in 10-hours (each) of training
8 regarding Child Find and the requirements outlined in No Child Left Behind and
9 IDEA regarding parent participation in their child’s IEP;
- 10 3. The Student will be assessed and evaluated by an Independent Educational Evaluator
11 for all suspected and diagnosed disabilities. Parent will select those evaluators and
12 doctors at their sole and exclusive discretion, the District will fully fund all such tests,
13 assessments and evaluations, and will not limit the Parents to their list of
14 “independent” specialists of the District’s hand-picked “vendors”;
- 15 4. Likewise, Student will also be given a complete psycho-educational evaluation by
16 Parent’s experts, all funded at public cost. The District will also fully fund a
17 socialization enhancement program to be supervised by Parent and paid for by
18 District with a cost not to exceed \$5,000;
- 19 5. The Student will be independently assessed and evaluated by a Certified Behaviorist,
20 Board Certified Behavior Analyst-Doctoral (BCBA-D) or better, for an appropriate
21 Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP). Staff,
22 students, teachers and aides will be appropriately trained by the BCBA regarding the
23 proper and appropriate implementation of that BIP once it is completed;
- 24 6. The Student will receive Extended School Year services for all the schooling she has
25 missed and general regression that has resulted from the School’s inability and
26 unwillingness to offer Student a legal and useful IEP. Such extended school year will
27 be provided and fully funded by the District for the next 4-years;
- 28 7. The District shall provide Student with private tutoring (by highly qualified teachers
selected by the Parent) until such time as the Student is at grade level in reading,
writing, and math or a period of time of not more than four years. This service is to
be provided at the Student’s home twice a week, two hours per session, by a qualified
reading/writing/math expert(s) at a cost of no less than \$90.00 per hour for 350 hours
as compensatory education for all the allegations listed herewith;

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8. The District shall fully fund 7-days of social camp (located in Northern California or Nevada) sometime in the next three-years at Parent’s sole and exclusive discretion. Costs of said camp not to exceed \$6,000;
9. The District shall be ordered to fully reinstate all the Student’s rights under IDEA and her IEP, and take all actions the Court deems necessary to make sure Student’s and Parent’s rights are fully protected in the future;
10. The District shall be ordered to pay Parent for all sums owed to her attorney in these matters if complainant is the prevailing party in this action;
11. The District shall be ordered to publish on their official website all necessary notices and information regarding Child Find mandates. The District shall be made to abandon its obsession with referring to special education as inclusive education as it is deceptive and inaccurate and does not comport with Child Find mandates as outlined in this complaint;
12. The District shall be ordered to reimburse Parent the sum of \$2,400, for the District’s sabotage by the Principal of Zephyr Cove Elementary School, who deliberately confounded and restricted the observation by my expert, Dr. Amanda Nicholson, BCBA-D in her attempts to observe the Student in her classroom setting pursuant to a Functional Behavioral Assessment and Behavior Intervention Plan.
13. The District shall also be ordered to provide/fund an independent speech and language evaluation as well as intensive speech therapy services and a more robust and intensive speech therapy program with increased frequency and duration. Further, the District should be ordered to rewrite her speech goals to include measurable, attainable, and time-bound objectives. These goals should reflect her current abilities and outline clear expectations for progress over the next two years.