

Concerns, pleas, and demands from Petitioners have been met with hostility, manipulation, and retaliatory responses from the District. Therefore, Petitioners have no choice but to bring this action to enforce their rights and stop the District's compounding violations against E.C.

II. STATEMENT OF FACTS

A. Petitioner E.C.

1. Petitioner E.C. is a 14-year-old student enrolled in the District as a 9th grader.
2. Petitioner T.C. is E.C.'s mother.
3. E.C. first enrolled in the District in 6th grade at the age of 12.
4. E.C. is diagnosed with attention-deficit/hyperactivity disorder ("ADHD").
5. E.C. is eligible to receive special education services through an Individualized Education Program ("IEP") under the category of Other Health Impairment ("OHI").
6. Due to his disability, E.C. has significant weaknesses in executive functioning, concentration/attention difficulties, and impulse control.
7. E.C. has significant difficulty in starting tasks, staying on task, and completing tasks.
8. E.C. struggles in core academic subjects due to deficits in fundamental skills in mathematics, reading, and writing.
9. According to his psychiatrist, E.C. recently began to exhibit symptoms of worsening anxiety and mood changes.
10. E.C.'s latest IEP annual review was done on March 11, 2024; E.C. was in the 8th grade.
11. In March 2024, E.C.'s 8th grade IEP provided a total of 5 hours per day of special education services as follows:
 - a. One hour and 15 minutes per day of in-person Co-Teaching instruction by a Special Education Teacher in Language Arts;

- b. One hour and 15 minutes per day of in-person Co-Teaching instruction by a Special Education Teacher in Science;
 - c. One hour and 15 minutes per day of in-person Co-Teaching instruction by a Special Education Teacher in Social Studies; and
 - d. One hour and 15 minutes per day of in-person Small Group instruction by a Special Education Teacher in Mathematics.
12. Starting in 9th grade, the IEP team decided to increase his special education services to 1 hour and 35 minutes for each core academic subject, for a total of 6 hours and 20 minutes of in-person special education instruction per day.

B. The Walton Alternative Center

13. On or around April 11, 2024, E.C. was handed an electronic vaporizer device from another student at school, who then asked E.C. to hand it to a third student.
14. A teacher saw E.C. put an item in his pocket and asked E.C. what the item was; E.C. handed the vape device to the teacher.
15. The District expelled E.C. from April 11, 2024 through December 20, 2024. E.C. was in the 8th grade when the District expelled him; E.C. will not be allowed to return to his school until his second semester of 9th grade.
16. During E.C.'s expulsion, the District gave him the option to attend its alternative school program—Walton Alternative Center (“WAC”).
17. WAC is entirely virtual and offers no in-person instruction or supports to its students, regardless of disability.
18. E.C. started WAC on or around April 29, 2024.

19. On June 12, 2024, E.C. filed an appeal of the District's discipline decision with the Georgia State Board of Education.

C. The District's Drastic Reductions in E.C.'s IEP Services

20. After E.C. was expelled in April, E.C.'s IEP team met on April 29 and May 2, 2024 (hereinafter "the May IEP meeting").

21. *After* the May IEP meeting, T.C. learned that the District unilaterally removed all of E.C.'s previous special education services until January 2025, when he returns to his regular high school in the second semester of 9th grade.

22. For the remainder of 8th grade, the District replaced E.C.'s 5 hours per day of in-person special education services with a 1 hour and 15 minute virtual "Study Skills" class.

23. For first semester of 9th grade, the District replaced E.C.'s 6 hours and 20 minutes per day of in-person special education services with a 1 hour and 30 minute virtual "Study Skills" class.

24. The District's unilateral changes following the May IEP meeting reduced E.C.'s total special education services by 75% per day while he is at WAP, until he returns to his regular school in January 2025.

25. On July 17, 2024, T.C. filed a Special Education Formal Complaint ("Formal Complaint") with the Georgia Department of Education ("GaDOE").

26. On August 6, 2024, the IEP team met again (hereinafter "the August IEP meeting").

27. *After* the August IEP meeting, T.C. learned that the District unilaterally removed E.C.'s Co-Teaching in Science and Small Group instruction in Math for when he returns to his regular school.

28. The District's unilateral changes following the August IEP meeting further reduced E.C.'s total special education services another 20% per day *when he returns* to his regular school.
29. The District never discussed any of these changes to E.C.'s special education services with T.C. before making them.
30. On August 16, 2024, T.C., through counsel, sent the District a letter giving notice of the District's discriminatory and retaliatory actions and demanded corrective action.
31. On September 3rd, 6th, and October 4th, 2024, additional IEP meetings were held where T.C. pleaded with the District to stop violating E.C.'s rights to no avail.

D. E.C. Needs Immediate Relief from the District

32. Over the last 2 years, every academic assessment that the District has given to E.C. shows that he is below grade level in every subject tested.
33. The District uses a computer program called Let's Go Learn (LGL) to assess E.C.'s grade levels in Math and Reading.
34. The District's LGL assessment shows that E.C.'s overall math skills are equivalent to a 4th grader.
35. The District's LGL assessment shows that E.C.'s overall reading skills are equivalent to a 6th grader.
36. E.C. has not met any of his IEP goals.
37. All of E.C.'s academic IEP goals are centered around skills taught in ELA and Math.
38. The District changed E.C.'s current school semester schedule so that he is not taking any Math or ELA classes.
39. Since March 2024, E.C.'s Math IEP goal has been to increase his math level to a 5th grade level, which E.C. has yet to accomplish.

40. The District refuses to add any Reading goals to E.C.'s IEP.
41. T.C. has explicitly requested that E.C.'s most recent Math and ELA teachers attend E.C.'s IEP meetings to provide information about his current levels of performance in those areas, but the District refused.

E. The District has Consistently Retaliated against Petitioners

42. Every time Petitioners exercise a right, the District takes adverse action against them.
43. After Petitioners appealed the discipline decision to the SBOE, the District referred E.C. to the Walton County Juvenile Court for tobacco possession on or around June 17, 2024.
44. After Petitioners filed their Formal Complaint, the District unilaterally terminated E.C.'s special education services in Science and Math for the next semester.
45. After Petitioners filed their Formal Complaint, the District unilaterally removed Algebra and ELA from E.C.'s first semester 9th grade schedule, approximately one week before E.C. started high school.
46. Due to the District's unilateral change to E.C.'s schedule, E.C. must now wait until 10th grade to take Algebra; 11th grade to take Geometry, and 12th grade to take Advanced Algebra, leaving him short of a fourth core math course needed to timely graduate.
47. In an attempt to compensate for its decision to preclude E.C. from 9th grade Algebra, the District unilaterally decided that E.C. will take a Foundations of Algebra class ("Foundations") in his second semester of 9th grade.
48. Foundations does not satisfy any of the 4 math course requirements necessary to graduate, unless the student is eligible for an alternate math course sequence.
49. Whether a student is eligible for an alternate math course sequence depends on how the student performs on the High School Math Decision Rubric ("Math Rubric").

50. A student cannot take the Math Rubric until the student completes Algebra and Geometry; E.C. will be in the 12th grade when he takes the Math Rubric.
51. If the Math Rubric shows that E.C. was capable of staying in the standard general math curriculum, it will be too late for him to catch up on his math requirements to timely graduate, as he would still have to complete both the Advanced Algebra course and a fourth core math course during his senior year.
52. The District’s unilateral decision to change E.C’s schedule has also precludes him from attending any of the institutions within the University System of Georgia, as he will not have the required math credits to apply.
53. The District never discussed the schedule and curriculum changes with T.C. before making the changes.
54. On September 14, 2024, the GaDOE issued its decision on Petitioners’ Formal Complaint, ruling in Petitioners’ favor on every single issue—the District violated the IDEA’s disciplinary procedures, IEP requirements, parent participation obligations, and the District failed to provide E.C. with a Free Appropriate Public Education (“FAPE”).
55. The GaDOE ordered the District to review and revise its policies and procedures, train its special education teachers and administrators, and submit all such revised policies, procedures, training attendance sheets, and training materials to the GaDOE.
56. At the October 4, 2024, IEP meeting, the District refused to provide E.C. with any relief for its violations.

III. LEGAL CLAIMS

57. Petitioners repeat and reallege each and every allegation in the forgoing paragraphs as if fully set forth herein.

A. INDIVIDUALS WITH DISABILITIES EDUCATION ACT

58. E.C. is a child with a disability as defined by the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1401(3)(A).
59. The District is a Local Educational Agency (LEA) as defined by the IDEA, 20 U.S.C. § 1401(19)(A).
60. The District failed to provide E.C. with a Free Appropriate Public Education (FAPE), in violation of 20 U.S.C. § 1412(a)(1)(A).
61. The District failed to continue E.C.'s educational services, so as to provide him with a FAPE, enable him to continue to participate in the general education curriculum, and progress toward meeting the goals set out in his IEP during his expulsion, in violation of 20 U.S.C. § 1415(k)(1)(D)(i).
62. The District failed to provide measurable annual goals designed to meet E.C.'s needs and enable him to make progress in the general education curriculum and to meet his other educational needs that result from his disability, and failed to provide him a FAPE, in violation of 20 U.S.C. § 1414(d)(1)(A)(i)(II).
63. The District failed to provide E.C. with special education and supplementary aids and services, based on peer-review research to the extent practicable, denying him a FAPE, in violation of 20 U.S.C. § 1414(d)(1)(A)(i)(IV).
64. The District failed to provide E.C. with appropriate transitional assessments, goals, and services, in violation of 20 U.S.C. § 1414(d)(1)(A)(i)(VIII).
65. The District failed to invite the appropriate and required individuals at E.C.'s IEP meetings, in violation of 20 U.S.C. § 1414(d)(1)(B).

66. The District failed to allow the IEP team, which includes parent T.C., to review and revise E.C.'s IEP services, in violation of 20 U.S.C. § 1414(d)(4).
67. The District failed to allow T.C. to participate in decision-making with respect to the educational placement of E.C., and the provision of a FAPE to E.C., and instead, made predetermined, unilateral decisions on these important issues, in violation of 20 U.S.C. § 1415(b)(1).
68. The District failed to develop an IEP that would allow E.C. to make progress in the general education curriculum, in violation of 20 U.S.C. § 1414(d).
69. The District failed to provide prior written notices of its decisions, in violation of 20 U.S.C. § 1415(c)(1).
70. The District's procedural violations have led to the denial of E.C.'s right to a FAPE, impeded T.C.'s ability to participate in the decision-making process regarding E.C., and caused a deprivation of E.C.'s educational benefits, as outlined in 20 U.S.C. § 1415(f)(3)(E)(ii).
71. The District failed to comply with the requirements for awarding units for mathematic courses for students receiving special education services under the IDEA, in violation of Ga. Comp. R. & Regs. 160-1-5-.15(2)(e).
72. The District has violated the rights of Petitioners, and others similarly situated in the District, and these violations are the direct result of the District's policies, procedures, and practices.

B. AMERICANS WITH DISABILITIES ACT and REHABILITATION ACT

73. E.C. is a qualified individual with a disability as defined by Section 504 of the Rehabilitation Act (“Section 504”), 29 U.S.C. § 705(20), and Title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12131(2).
74. The District is a public entity that receives federal financial assistance in the operation of its programs or activities as defined by Section 504, 29 U.S.C. § 794(b)(2)(B), and the ADA, 42 U.S.C. § 12131(1).
75. The District intentionally, and with deliberate indifference, excluded Petitioners from participation in, and denied them the benefits of, the District’s services, programs, or activities, and otherwise subjected Petitioners to discrimination, based on E.C.’s disability, in violation of Section 504, 29 U.S.C. § 794(a), and 42 U.S.C. § 12132.
76. The District has denied E.C. the aid, benefit, and services necessary to afford him an equal opportunity to obtain the same result, to gain the same benefit, and to reach the same level of achievement as provided to others, in violation of 29 U.S.C. § 794(a); 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1)(iii).
77. The District has provided E.C. with different and separate aids, benefits, and services than is provided to others, in violation of 29 U.S.C. § 794(a); 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1)(iv).
78. The District retaliated against Petitioners for exercising their rights, in violation of 42 U.S.C. § 12203.
79. The District has violated the rights of Petitioners, and others similarly situated in the District, and these violations are the direct result of the District’s policies, procedures, and practices.

80. This Office of State Administrative Hearings (“OSAH”) has uniform and well-established precedent that Section 504 and ADA claims are outside of OSAH’s administrative jurisdiction. Out of an abundance of caution, Petitioners plead Section 504 and ADA claims as they seek to exhaust administrative remedies. *See* 20 U.S.C. § 1415(l).
81. Petitioners intend to pursue non-IDEA claims for further relief after exhaustion of administrative remedies, and seek all rights, remedies, and procedures available to them under Section 504, the ADA, Title VI of the Civil Rights Act, 42 U.S.C. § 1983 and any other claims provided by federal and state law.
82. Petitioners reserve all rights and claims under the “sufficiency” provisions of the IDEA and note that such provisions do not require the specific pleadings of all facts and are intended to require pleading less formal than that applicable in courts which require notice pleadings.

IV. REMEDY AND PROPOSED RESOLUTION

Petitioners respectfully request that the Administrative Law Judge:

- A. Order the District to provide and/or fund compensatory educational services that would place E.C. in the position he would have been but for the District’s denial of FAPE;
- B. Order the District to provide and/or fund compensatory educational services that would place E.C. back on track of the standard general curriculum for timely graduation and full post-secondary educational opportunities that students without disabilities receive;
- C. Order the District to develop an appropriate IEP with targeted, measurable goals tailored to E.C.’s needs, to allow him to obtain a FAPE moving forward;
- D. Order the District to provide and/or fund prospective educational services to ensure E.C. receives a FAPE;

- E. To the extent any private placement and/or services are awarded, order the District to pay for all associated costs, including, but not limited to, costs for administrative fees, assessments, and transportation, if necessary;
- F. Grant Petitioners attorney's fees and costs related to the necessity of this litigation; and
- G. Order such other and further relief as this Court deems appropriate.

Dated: October 18, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of Petitioners' Request for Due Process Hearing by way of electronic mail and U.S. mail as follows:

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