

**ARKANSAS DEPARTMENT OF EDUCATION**  
**SPECIAL EDUCATION SECTION**

<b>XXXXXXXX,</b>	)	
<b>as parent of</b>	)	<b>PETITIONER</b>
<b>XXXXXXXX</b>	)	
	)	
<b>vs.</b>	)	<b>CASE No. H-21-17</b>
	)	
<b>LEAD HILL SCHOOL DISTRICT</b>	)	<b>RESPONDENT</b>

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**ORDER**

**NOW** on this 27<sup>th</sup> day of April, 2021, this matter came on for decision after hearing Petitioner’s Request for a Due Process Hearing, Petitioner, **XXXXXXXX**, as Parent of **XXXXXXXX**, *represented by Angela Artherton, Attorney, and Respondent, LEAD HILL SCHOOL DISTRICT*, represented by Cody Kees, Attorney. This cause was submitted upon the pleadings, the testimony of witnesses, argument of Petitioner and Respondent, and other matters and things, from all of which the Hearing Officer finds and Orders. Hearing dates were set for March 30<sup>th</sup> and 31<sup>st</sup> and April 1<sup>st</sup>, 2021. Based upon the testimony of the witnesses and the evidence presented and admitted into the record of this proceeding, I find the following:

**PROCEDURAL HISTORY:**

On December 4<sup>th</sup>, 2020, the Arkansas Department of Education (hereinafter referred to as “Department”) received a request to initiate due process hearing procedures from **XXXXX XXXXX** (hereinafter referred to as “Parent” or “Petitioner”), the parent and legal guardian of Student. Parent requested the hearing because she believed that the District failed to comply with the Individuals with Disabilities Education Act of 2004, 20 U.S.C. §§1400-1485, as amended (hereinafter referred to as “FAPE” or the “Act”) and the regulations set forth by the Department by not providing the Student with appropriate special education services, as noted in the statement of issues. At the time Parent filed a request for due processing hearing, Student was a seventeen year-old, twelfth grade, female enrolled in the District.

In response to the Parent’s request for hearing, the Department assigned the case to this hearing officer. This request for a Due Process Hearing was filed on December 3<sup>rd</sup>, 2020 and a Timeline Order was issued on December 4<sup>th</sup>, 2020 Thereafter, the date of January 5<sup>th</sup>, 2021 was set as the date on which a hearing would commence should the Parent and District fail reach resolution

prior to that time. The Due Process Hearing was set for January 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup>, 2021. On December 10<sup>th</sup>, 2020, an Opening Order and Pre Hearing Order was issued and mailed to the Parties. On the 14<sup>th</sup> of December the Respondent filed a response to the Complaint. On the 22<sup>nd</sup> of December, 2020 the Respondent complied with the five day rule disclosure with the Petitioner complied with the same on December 23<sup>rd</sup>, 2020. On the 27<sup>th</sup> day of December the Hearing Officer received the Respondent's unopposed Motion for a Continuance and conference call was held. A Pre-Hearing Conference was re-scheduled to be held March 21<sup>st</sup>, 2021 with the Due Process Hearing re-scheduled for March 29<sup>th</sup>, 30<sup>th</sup> and 31<sup>st</sup>, 2021. The Order for a Continuance was issued January 2<sup>nd</sup>, 2021. On March 24<sup>th</sup>, 2021 a Motion for Continuance was received and a conference call was held. A Continuance was granted moving the start date of the hearing forward one day to reset the Hearing days to March 30<sup>th</sup> and 31<sup>st</sup> and April 1<sup>st</sup>, 2021. A written Motion to Continue was received by the Hearing Officer on March 24<sup>th</sup>, 2021 and the Order to Continue was entered on March 25<sup>th</sup>, 2021. On March 29<sup>th</sup>, 2021 the Hearing Officer received and reviewed the Petitioner's and Respondent's Pre Hearing Briefs. On March 29<sup>th</sup>, 2021 a Pre Hearing Conference was held using ZOOM Conference.

On March 30<sup>th</sup>, 2021 the Due Process Hearing was called and held by ZOOM conference. Witness testified and the hearing was recessed until March 31<sup>st</sup>, 2021 when additional witnesses were called and evidence admitted. At the end of testimony on April 1<sup>st</sup>, 2021, both sides rested and the Hearing was concluded.

### **ISSUES PRESENTED:**

Were the educational placements offered by Lead Hill School District (hereinafter referred to as "District" or "Respondent") from December 4<sup>th</sup>, 2018 until December 4<sup>th</sup>, 2020 reasonably calculated to provide XXXXX XXXXX (hereinafter referred to as "Student") with a free, appropriate public education (hereinafter referred to as FAPE)?

Whether any violations of the IDEA amounted to a deprivation of a FAPE and, if so, how the deprivation should be remedied.

Is Student entitled to be declared eligible to receive services including but not limited to: compensatory educational services, college tuition, counseling and social work support as a result of the alleged failure of Respondent to identify and offer special education and related services?

### **PETITIONER IS SEEKING:**

- 1) Compensatory education defined as college tuition at an Arkansas public college or university and/or private provider;
- 2) *Mental health therapy of at least one hour per week for*

*up to two years; and*

- 3) *Social work support for at least two hours per month for up to one year.*

**FINDINGS OF FACT:**

- 1) Student is age 17 and is a Twelfth Grade student enrolled in the Lead Hill School District and is diagnosed as a child with a Specific Learning Disability in the area of math calculation;
- 2) Lead Hill School District is a Local Education Agency as defined in 20 U.S.C. 1401(19);
- 3) Student has attended Lead Hill School District her entire academic career;
- 4) When asked about the Special Education referral process, the witness testified that when a parent or a teacher has a concern, there is a meeting, then they refer to the SPED teachers, then follow up with a meeting with the parent and the teachers to decide, as a committee, if it is felt the student needs to be tested.<sup>1</sup>
- 5) The Determination Summary of the 504 plan for the Student, dated January 29, 2018, indicated the team reviewed and considered data, sources and referral documents, checked grade reports, standardized tests and medical evaluation/diagnosis.<sup>2</sup>
- 6) Plan Review Form dated August 3, 2018, was the first review for the Student's 504 Plan.<sup>3</sup>
- 7) December 4, 2018, when the relevant Statute of Limitations period began for this case, the 504 plan in place was the one with the revisions made as of the beginning of the Student's sophomore year.<sup>4</sup>

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<sup>1</sup> Vol. I, p. 12, l. 7-21

<sup>2</sup> Vol. I, p. 53, l. 1, through p. 58, l. 15

<sup>3</sup> Vol. I, p. 83, l. 25, through p. 85, l. 13

<sup>4</sup> Vol. I, p. 85, l. 19-24

- 8) Student was a starter on 33-35 of the 37 basketball games her senior year and there was good rapport between the Student and the other players.<sup>5</sup>

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<sup>5</sup> Vol. I, p. 162, l. 22, through p. 164, l. 17

- 9) There was a female administrator assigned to the basketball locker room halfway through the 2020-2021 school year to make sure the camaraderie was good, because there had been a catty incident during the season when they went through a four-game losing streak and there were some competitive players and uncompetitive players, but it was not directed at any one player, and a couple of players were yelled at by another player but it did not involve the Student.<sup>6</sup>
- 10) The Lead Hill School District 2020-2021 graduating class has 38 members, and the Student's rank is 13<sup>th</sup>.<sup>7</sup>
- 11) Student was on a 504 plan when school started in 2019-2020.<sup>8</sup>
- 12) Student is the Senior Class President by student vote at the beginning of the year when she beat her opponent, and she also is the Student Council President. The Student is also vice-president of FFA and plays softball and basketball.<sup>9</sup>
- 13) The Student has an IEP, dated February 5, 2021.<sup>10</sup>
- 14) Reviewing the TRIAND Transcript Record, the Student's 2019-2020 math class was Algebra two, and semester one her grade was 88, and semester two her grade was 84. The Student's grade report for math class the 2020-2021 school year for quarter one was 99, and for quarter two was 97.<sup>11</sup>
- 15) Student's mother has an undergraduate in Early Childhood Education from Arkansas Tech, a Master's degree in Special Education, pre-school through fourth grade in 2014 from Arkansas State University as well as an endorsement of K-12 Special Education from Arkansas State University in December of 2018. Student's mother never made a special education referral on her daughter before the filing of this request for a Due Process Hearing.<sup>12</sup>

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<sup>6</sup> Vol. I, p. 165, l. 6, through p. 168, l. 9

<sup>7</sup> Vol. I, p. 226, l. 5, through p. 227, l. 24

<sup>8</sup> Vol. II, p. 138, l. 1, through p. 139, l. 5

<sup>9</sup> Vol. II, p. 127, l. 24, through p. 133, l. 24

<sup>10</sup> Vol. I, p. 236, l. 22, through p. 239, l. 22

<sup>11</sup> Vol. II, p. 147, l. 5, through p. 149, l. 10

<sup>12</sup> Vol. III, p. 84, l. 24

- 16) Given the data, the Student's primary disabling condition was a Specific Learning Disability in the area of mathematics. The expert witness testified that was supported through Regression Analysis that is methodology used by the Lead Hill District to determine whether or not a student exhibits a Specific Learning Disability, and the Student's was very specific, that it is not in all areas of mathematics, but was in numerical operations, and in running Regression Analysis, it was demonstrated the Student had a severe discrepancy within that area. The witness testified that qualified the Student as a student with a Specific Learning Disability in the area of mathematics in numerical operations that was eligible to receive Special Education instruction.<sup>13</sup>

### **WITNESS DEBBIE RICHARDSON**

The witness Debbie Richardson testified she graduated from Lead Hill High School, attended North Arkansas College and College of the Ozarks, and holds a Master's degree in building level principal as well as a Master's degree in curriculum instruction.<sup>14</sup>

The witness testified she worked at Blue Eye, Missouri in pre-school for a few months post-graduation, then was hired at Lead Hill in 1994 and has been there ever since, starting out teaching first and second grade together, then second grade for a couple of years, then back to second grade classroom, then second grade, with the rest of her career in kindergarten for 11 ½ years, then moved to principal for seven years and in this position for the last few years. The witness testified she is the K-12 curriculum director, K-12 testing coordinator, 504 coordinator, ALE coordinator and foster liaison and homeless for the school district, and that she had the Student in kindergarten.<sup>15</sup>

The witness testified, when asked if the school district had anyone in-house in charge of IDEA or other federal programs besides the ones she had identified, that Federal programs is Ms. Richey and Ms. Parks, both of whom are relatively new to Lead Hill. The witness testified that Lesa Barksdale does a lot of their LEA for IDEA, but mostly it has been a high school principal and a representative from the Co-op has been largely in that role. The witness testified that information from the school about students not already on IEP's would go through the referral process, then the Special Ed teachers would make contact.<sup>16</sup>

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<sup>13</sup> Vol. III, p. 162, l. 12, through p. 163, l. 5

<sup>14</sup> Vol. I, p. 8, l. 5, through p. 9, l. 14

<sup>15</sup> Vol. I, p. 9, l. 22, through p. 10, l. 17

<sup>16</sup> Vol. I, p. 10, l. 18, through p. 12, l. 6

When asked about the referral process in her experience, the witness testified that when a parent or a teacher has a concern, there is a meeting, then they refer to the SPED teachers, then follow up with a meeting with the parent and the teachers to decide, as a committee, if it is felt the student needs to be tested, then they follow up that with testing and Ms. Barksdale comes in and they have a psychological evaluator come in and follow through; that if the student qualifies, the SPED teachers handle all the paperwork.<sup>17</sup>

The witness testified they do have students there who are on an IEP for something other than a learning disability or cognitive impairment, that although she did not keep up with IEP's, she would say they do have students who qualify for an IEP under the category of Other Health Impairment, but did not know of anyone who qualifies under the category of Emotional Disturbance.<sup>18</sup> When asked what the referral process for an IEP consideration looks like, the witness testified they listen to parents and to teachers, but it is not just verbal, that there is still documentation that must be done.<sup>19</sup>

When asked eligibility for a 504 and an IEP generally, the witness testified with a 504 teachers make accommodations for students, and with an IEP teachers make modifications for students.<sup>20</sup> The witness testified she was a colleague of and friends with the Student's mother, and that the witness' son, Heath, was the Student's eighth grade teacher for math.<sup>21</sup> The witness testified she did recall an incident in about sixth grade where a boy named Noah Jeffries stepped on the Student's hand and crushed it. The witness also testified she was aware her son reported to the Student's mother and to the school counselor that the Student had been cutting.<sup>22</sup>

Looking at the 504 handwritten referral for the Student from the Student's mother from November of 2017, the witness testified the mother's concern was that the Student had been diagnosed with depression and the mother was worried about medication the Student had been put on and felt the Student needed counseling and to be able to leave the room if she felt overwhelmed, and was also worried about attendance for appointments for therapy. The witness testified the Student's mother had set up private therapy appointments because neither the Student's mother nor the Student felt comfortable with using Youth Bridge on campus since the mother's aunt was the therapist there, and the witness testified the Student was allowed to

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<sup>17</sup> Vol. I, p. 12, l. 7-21

<sup>18</sup> Vol. I, p. 13, l. 4-16

<sup>19</sup> Vol. I, p. 13, l. 17, through p.14, l. 21

<sup>20</sup> Vol. I, p. 20, l. 24, through p. 21, l. 8

<sup>21</sup> Vol. I, p. 23, l. 17, through p. 24, l. 9

<sup>22</sup> Vol. I, p. 27, l. 10, through p. 28, l. 20

go to the private therapy sessions and come in late for classes and she could still be exempt and make up work from when she was not present. The witness testified that was one of the 504 things set up for the Student, and another accommodation set up was for the Student to leave a classroom and go to a couple of safe places on campus when she felt her anxiety build up.<sup>23</sup>

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<sup>23</sup> Vol. I, p. 31, l. 16, through p. 35, l. 21



The witness testified the Student's mother was also worried about some medical issues the Student had, and marked concern about low self-esteem, attention span, ability to focus and frustration on the referral.<sup>24</sup>

Looking at a Teacher Feedback Form for 504 from the Student's algebra teacher, the witness testified the teacher was McDougal and it was online instruction for the Student's freshman year. Reading from the form, the witness said, as to the Student's challenges, it recited "Real world applications/word problems; peer distractions; self-confidence with math skills." The witness testified the Student did have some additional lab time and there were some math teachers who worked with the Student and the other students that were online.<sup>25</sup>

Looking at another Teacher Feedback Form from a survey of ag class from Mr. Sullivan, which said the Student could be somewhat spacey, and an English Nine Feedback Form from Ms. Ribando, the English teacher, which set out the Student had difficulty with relationships, the witness testified she had discussed that with Ms. Ribando in developing the Student's 504 plan, but testified she did not recall it was necessarily interfering with anything.<sup>26</sup>

Looking at the Teacher Feedback Form from Coach Rogers for the Student's physical education, which said the Student had difficulty with relationships, the witness testified she discussed with that teacher the same thing she had with others, that the Student had other students she could not get along with, that they did not interact well together.<sup>27</sup>

Looking at the Teacher Feedback Form from Ms. Kolb, the Student's physical science teacher, the witness recited from the form that the Student's seating assignment was changed to the back due to issues with others, and that the Student's grade was due to a couple of poor test scores since that change. The witness testified Ms. Kolb was part of the committee that developed the 504 plan for the Student. The witness testified she did not think it unusual for some students not to get along. The witness also testified that one of the accommodations for the Student was to have her sit closer to the back of the room so if she needed to leave it would not draw attention to her and she could leave.<sup>28</sup>

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<sup>24</sup> Vol. I, p. 38, l. 1-17

<sup>25</sup> Vol. I, p. 42, l. 8, through p.44, l. 11

<sup>26</sup> Vol. I, p. 48, l. 5, through p. 49, line 18

<sup>27</sup> Vol. I, p. 49, l. 22, through p. 50, l. 18

<sup>28</sup> Vol. I, p. 50, l. 21, through p. 52, l3

Looking at the Determination Summary of the 504 plan for the Student, dated January 29, 2018, which the witness testified she completed and filled out, as to the team reviewing and considering data, sources and referral documents, the witness testified they checked grade reports, standardized tests and medical evaluation/diagnosis. The witness testified the documentation from the Student's doctor, Dr. Chitsey, had a depression diagnosis for the Student. The witness testified she was aware that the Student was receiving therapy at that point with Cassandra Elledge through Youth Bridge. The witness agreed that a child who received mental health services through Chenal or Burrell will see at least annually the psychiatrist or psychologist who is over the practice, and testified that as far as the witness knew, the Student would see a psychiatrist once a year.<sup>29</sup>

When asked under what circumstances the school would be triggered to ask the psychiatrist or psychologist overseeing Chenal or Burrell to evaluate a student, the witness testified if the student was going to harm themselves, and agreed that cutting is a self-injurious behavior. The witness testified that as to the cutting and the Student, when it happened the Student's mother and the school counselor dealt with that, and the Student's mother was going to handle it through the Student's therapist at Youth Bridge. The witness testified another circumstance that could lead to requesting an evaluation would be where behavior was injurious to others.<sup>30</sup>

Looking at the Eligibility Determination Summary further, the witness testified they had also considered Teacher/Administrator Input, that they went through the Teacher Evaluation Forms for the 504 planning, and that all the Student's teachers who had her the first semester of freshman were included. The witness testified that she had checked "yes" as to the question did the Student have a physical or mental impairment, and listed depression, some anxiety and emotional illness. The witness testified that for major life activity affected she checked "concentrating." The witness testified she had written in the answer to the question as to whether the impairment substantially limits a major life activity, "Although anxiety does not necessarily impact the child's academic abilities, it can affect their ability to learn." As to whether anxiety was affecting a child's ability to learn, the witness testified that the Student's academics were good, but that besides looking at academics you would look at the child's overall well-being, how they interact and how it affects their lives, if the medication is working, the overall child and how they are surviving in their environment, you would get input from teachers, maybe the counselor, health records, the parents, lots of input to make those determinations about any student specifically.<sup>31</sup>

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<sup>29</sup> Vol. I, p. 53, l. 1, through p. 58, l. 15

<sup>30</sup> Vol. I, p. 61, l. 1, through p. 63, l. 11

<sup>31</sup> Vol. I, p. 65, l. 5, through p. 71 l. 9

The witness testified she asked the Student's mother to provide records from the Student's therapist, and that the Student's mother said there was no need to sign a release, that she would get the information and give it to the witness, but that she (the witness) had no documentation from the Student's mother that was ever provided to the witness from Youth Bridge until yesterday, when the mother's counsel gave it to the school district's counsel. The witness testified that she and the Student's mother had several conversations about getting those records to the witness if the parent wanted that to be a part of the Student's plan.<sup>32</sup> The witness testified that she did not believe that as of January 29, 2018 that anxiety was affecting the Student's interactions, performance in school, test scores or grades. The witness agreed that anxiety can affect a child's ability to learn.<sup>33</sup>

The witness agreed at the end of the document as to recommendations and placement options there was a handwritten note the witness thought bore the date of when she wrote it, February 1, 2018 that the Student would be placed in a 504 and reviewed in three months.<sup>34</sup>

Looking at the Accommodation Plan for 504 developed by the committee of which the witness was a part, the witness testified, as to the paragraph asking for a description of the nature of the disability and how it affects a major life activity, that she wrote "Depression in teenagers is a very serious medical problem that leads to long-lasting feelings of sadness along with loss of interest in once enjoyed activities. Teen depression affects the way a teen thinks, feels, behaves, and can lead to significant emotional, functional, and physical problems." The witness testified there was no document to show a review was held in three months, nor did she recall doing a review then. She testified she had some medical problems so missed some school, and that is one of the reasons it was put off.<sup>35</sup>

Looking at the Plan Review Form dated August 3, 2018, the witness testified that would have been the first review for the Student's 504 Plan. The witness read her notes thereon, which said the Student had a good summer, the therapist was working on the Student's coping skills and seed digging was the focus for the school. The witness testified that meant to dig deeper to see if you can get to the problems with the students, a therapeutic tool. The witness testified the coping skills being worked on for the Student was to teach her to interact better with her peers, to work through things and feel better, and that the Student was allowed to go to the art room or the library as needed and chosen to her.<sup>36</sup>

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<sup>32</sup> Vol. I, p. 71, l. 10, through p. 72, l. 7

<sup>33</sup> Vol. I, p. 74, l. 9-11

<sup>34</sup> Vol. I, p. 80, l. 17, through p. 81, l. 8

<sup>35</sup> Vol. I, p. 81, l. 10, through p. 82, l. 19

<sup>36</sup> Vol. I, p. 83, l. 25, through p. 85, l. 13

The witness agreed that as of December 4, 2018, when the relevant Statute of Limitations period began for this case, the 504 plan in place was the one with the revisions made as of the beginning of the Student's sophomore year. The witness then said there was one revision, as the Student's junior year was when the parent came back after the summer and said the Student had seizures and was getting a followup appointment for a doctor and went to the Children's Hospital, so they went in and added a health plan for the Student's seizures and made some accommodations for her testing then.<sup>37</sup>

Looking at a treatment plan by Cassandra Elledge for the Student dated October 20, 2018, the witness testified she had never seen the document until yesterday when the school district's counsel told her he had it. Looking at a document titled "Psychiatric Evaluation" dated November 20, 2018, the witness testified those were the documents for which she asked the Student's mother, but that she had never seen them until this hearing.<sup>38</sup>

Looking at an ACT score assessment the Student took in 2016 in the seventh grade, the witness testified she had seen it before, that they did look at seventh grade scores, and testified the same report for the Student in eighth grade under ACT Readiness Level for Reading showed the Student needed support, which was the same year the Student's math teacher had seen her cutting and reported it to the Student's mother and the counselor.<sup>39</sup> When asked what happens when a child gets an "in need of support" designation on a report, the witness testified that they have intervention time for each class set up, that they actually had RTI time set in their schedule for students to get extra help.<sup>40</sup>

Looking at the Student's ninth grade ACT Aspire report, the witness testified that under "ACT Readiness Level for reading it reflected "close," and for math it reflected "in need of support." <sup>41</sup> Looking at supplemental scores for the Student for high school, the witness testified that the Student was below readiness for English language arts, that the Student was below readiness in STEM, which is math and science, technology, and that for Progress with Text Complexity the Student was not making sufficient progress, although she was close in both of them.<sup>42</sup>

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<sup>37</sup> Vol. I, p. 85, l. 19-24

<sup>38</sup> Vol. I, p. 86, l. 20, through p. 87, l. 10

<sup>39</sup> Vol. I, p. 87, l. 20, through p. 89, l. 2

<sup>40</sup> Vol. I, p. 89, l. 6-13

<sup>41</sup> Vol. I, p. 90, l. 3-8

<sup>42</sup> Vol. I, p. 91, l. 3, through p. 91, l. 21

Looking at an ACT Aspire Summative Test the Student would have taken April 30, 2019, for her tenth grade year, the witness testified that for science the Student was listed as being in need of support, that for math she was listed as being in need of support, and for English language arts and STEM as being below readiness.<sup>43</sup>

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<sup>43</sup> Vol. I, p. 91, l. 22, through p. 92, l. 17

The witness testified she has known the Student since the Student was in kindergarten, that since the school is so small, about 360 students, the witness had also seen the Student playing sports, working, in the community, and that the Student is a special girl, that the witness and the Student's mother have long been friends and colleagues. The witness testified that the Student's mother has a Master's in Special Education.<sup>44</sup>

The witness testified that she worked with the Student's mother when she was a teacher at Lead Hill, that the Student's mother advocated for students, was familiar with the IDEA process, was considered by the witness to be one of the best special ed teachers they have had, and the mother and the witness had each other's cell phone numbers.<sup>45</sup>

The witness testified that she had not seen the Student's course work in the last two years, other than the documents at this trial, but said that from her interactions with the Student, she is neither socially poor or inept, and that as to the witness' opinion of the Student's social skills, she functions really well, balancing things, having a job, playing baseball and softball, working around her schedule, with friends from Harrison with whom she traveled, and the witness described the Student as a social butterfly, with friends from several schools. The witness testified the Student is student council president, senior class president and vice-president of FFA, is very responsible, and also helps others, and the witness testified she would not come to the conclusion the Student needed Special Education services from the time of kindergarten through March 30<sup>th</sup> of 2021. The witness testified that even if the Student needed support in some areas, she felt the Student's mother, with her background in Special Education, would have said something if she felt the Student needed Special Ed and needed an IEP, but that the mother had never mentioned that.<sup>46</sup>

The witness testified there was nothing about the Student socially, behavior-wise or academically to lead the witness to believe the Student could only access her academics through an IEP. The witness testified the Student was even exempt from semester tests because her grades and attendance levels were so good. The witness testified the Student over her career played golf, was a cheerleader, played basketball and then softball.<sup>47</sup>

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<sup>44</sup> Vol. I, p. 94, l., 4, through p. 96, l. 20

<sup>45</sup> Vol. I, p. 96, l. 21, through p. 97, l., 11

<sup>46</sup> Vol. I, p. 97. l. 12, through p. 100, l. 10

<sup>47</sup> Vol. I, p. 100, l. 21, through p.102, l. 13

Gong back to the Student's ninth and tenth grade year when the 504 process was started at the beginning of 2018, when asked her understanding of the mental health counseling the Student was receiving at that time, the witness testified it was through Youth Bridge off campus since the on-campus provider was a relative of the Student and her mother with whom they did not feel comfortable, and the parent took care of all that. The witness testified the Student's parent had put in the parent's document there were also some family things going on, so that was the whole reason for the 504 plan, that it was not for academics, it was so the Student could get counseling, and they made accommodation so the Student would not be counted absent during that time and would be allowed to make up the work.<sup>48</sup>

Looking at the 504 Plan, the witness testified under Accommodations, it said "Other" and mentioned the accommodations the teachers needed to make for the Student to be absent from classes, and testified the teachers knew it was the Student's responsibility to get with them and make sure she had her work, and that the Student was always really good about following through and making sure she had her work.<sup>49</sup>

Discussing the annual review through August of 2018, the witness testified no one ever expressed in a meeting or to her that the accommodations were inadequate, nor did she personally see issues that would lead her to think that, but if she had, she would have met with the parent and there would have been a committee meeting.<sup>50</sup>

The witness testified that she had never been a part of a process generally where a student's 504 was evolved into an IEP besides this case. The witness testified the Student had accommodations this year for the ACT, that last year they tried to get them, but due to the Student's seizure issues they felt the Student needed to be in the small group. The witness testified this year's accommodations were approved for extra time.<sup>51</sup>

Going back to last year, the Student's 11<sup>th</sup> grade year, the witness testified the ACT for juniors is free in February for all juniors, so the Student would have taken it on campus last year, that she could not have gone to Bergman and paid for it, as it was on the same day, and the Student was in a small group.<sup>52</sup>

The witness testified the Student's mother gave documentation to the witness for

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<sup>48</sup> Vol. I, p. 102, l. 18, through p. 105, l. 8

<sup>49</sup> Vol. I, p. 105, l. 9, through p. 106, l. 4

<sup>50</sup> Vol. I, p. 106, l. 5, through p. 107, l. 14

<sup>51</sup> Vol. I, p. 107, l. 15, through p. 108, l. 11

<sup>52</sup> Vol. I, p. 108, l. 12, through p. \*, l. \*

accommodations for this year's ACT, which was from Dr. Chitsey, the Student's primary care doctor, that referenced the depression diagnosis and seizure plan which entitled the Student to accommodations, and the Student will be taking it in April.<sup>53</sup>

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<sup>53</sup> Vol. I, p. 109, l. 12, through p. 110, l. 23



The witness testified the school also has waivers for ACT, so many a year, and although she did not know if the Student got one, they do help students take them again and give them waivers so they do not have to pay for it. The witness testified they look at ACT scores and note areas where they are below average, in need of support, and RTI intervention is provided, which is helping work on whatever skills are low, which is provided to all students, whether Special Ed or not.<sup>54</sup>

The witness testified she had seen students whose grades were good in class but not on tests, where they are just not good test-takers, which is called test anxiety, and at Lead Hill the response is to provide the RTI. The witness testified that the Student should have been provided with RTI for areas where she did not have the ready score. When asked what services are available to the Student regarding Lead Hill and ACT prep, the witness testified Ms. Popejoy, the Student's math teacher, said she was doing ACT prep, and that she believed Ms. Ribando was doing literacy.<sup>55</sup>

The witness was asked about an incident where the Student hit the window in her locker room, and the witness testified at a basketball game someone told her the Student had hurt her hand, so the witness went to the locker room, looked at the window, cleaned it up, and spoke with the Student. The witness testified the Student was very upset, that she wanted to leave and her grandmother was there instead of her mother, and the grandmother wanted the Student to stay and play. The witness testified the Student told her she and another girl had gotten into it, that the other girl's dad had pulled up and the witness guessed was throwing little pebbles at the window and the Student wanted them to stop and hit the window because she was angry. The witness testified she was afraid the Student's hand was broken. The witness testified the Student played ball that night and said she was fine, that it was all over a boy, and it seemed resolved, and the next day the girls were talking. The witness testified that is the only time she had ever known the Student to hit something, that she might do it elsewhere, but not at school.<sup>56</sup> The witness testified she does think, as an educator for 31 years, the Student is ready for college and that she can make it.<sup>57</sup>

### **WITNESS ANDY MUNDAY**

The witness Andy Munday testified he knew the Student through basketball, that she had been on his team since her eighth grade year, so this will be her fifth year. The witness testified he

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<sup>54</sup> Vol. I, p. 111, l. 1, through p. 112, l. 14

<sup>55</sup> Vol. I, p. 112, l. 18, through p. 116, l. 1

<sup>56</sup> Vol. I, p. 116, l. 11, through p. 119, l. 15

<sup>57</sup> Vol. I, p. 119, l. 16, through p. 120, l. 3

coaches junior high and high school and also peewee.<sup>58</sup>

The witness testified his undergrad was at Buena Vista University, he got a K-6 elementary education, then was at Iowa Lakes Community College his first two years, Iowa Lakes his first two years, then Buena Vista University for his undergrad. The witness testified he received his first Masters through University of South Dakota in higher education and administration, and his second Masters through the University of South Dakota in pre-K-12 principal building level administration.

The witness testified after his undergrad he was a substitute teacher and was assistant varsity girls' When shown a document with "six pills" written on it, a note categorized as given by the young man to the Student suggesting how she might kill herself, the witness testified he had seen the document before, and though he did not recall the time frame, testified it was through the investigation. The witness testified after the action was deemed bullying, they took action and had the proper consequences to the incident. He also was a basketball coach at his old high school for about a year. The witness testified he then took over as a fourth grade at-risk teacher for a year at his old school, to maintain the position of assistant varsity girls' basketball coach. The witness testified he also held the position of assistant varsity girls' tennis coach, and was also the middle school football coach. The witness testified he then took over at another school and taught Special Education for a while and was the head varsity girls' basketball coach. The witness testified he then went to Coffeyville Community College in Kansas, where he was Director of Student Conduct, Director o Residential Life and also an assistant basketball coordinator, and was there from 2008 to 2016. The witness said he then got back to the K-12 setting at Lead Hill in 2016, and into administration as Dean of Students and went back to high school coaching.<sup>59</sup>

The witness testified as Dean of Students he has a student advocate role, a parent/student interventionist, and makes sure it is a wholesome atmosphere for the student. The witness testified it was brought to his attention his first year at Lead Hill that the Student was bullied by a particular young man, and he and the principal observed and watched, that everyone was made aware of it, and when shown a document as to a summary of bullying from sixth through ninth grades that the Student wrote, as to the young man telling the Student to kill herself, the witness testified he did not recall if it was the eighth grade year, but that there was an investigation done and there was an incident deemed bullying.<sup>60</sup>

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<sup>59</sup> Vol. I, p. 124, l. 12, through p. 127, l. 21

<sup>60</sup> Vol. I, p. 127, l. 22, through p. 133, l. 18

The witness testified he had been part of the Student's 504 team at one time, about a year and a half ago, regarding the Student's seizures and her anxiety and depression, that they take those steps very seriously to make sure they accommodate those. The witness testified he was familiar with the IDEA, that it was through Special Ed, but he has no involvement with Special Education at Lead Hill. When asked if in his role as Dean of Students he would know about a particular student's IEP, the witness testified the only way he would know about a student's IEP would be if he was on that IEP team, if he was brought in for an IEP, and if he had that student in class, when he would receive documentation, citing for example, Mr. Milligan sent the witness the Student's IEP regarding her status now. The witness testified if he has a student in basketball, he would receive the IEP at that time.<sup>61</sup>

When asked his understanding of a 504 plan, the witness testified it is to accommodate and help the student with any learning they need help with in the classroom, such as if a student was struggling with not coping with things, that student may need to sit closer to the teacher's desk to cope better with lectures, or a student may need to go somewhere else due to depression to get back on track. The witness testified that an IEP is a specific learning disability and the IEP concentrates on that. The witness agreed there are categories of eligibility for an IEP. The witness testified a Behavior Intervention Plan is separate from an IEP, but he did not know what, if any, mental health issues can suggest eligibility for an IEP.<sup>62</sup>

The witness testified he was not a part of the 504 team in connection with development of the Student's initial 504 Plan, and looking at the Teacher Feedback Form the witness testified was his handwriting, the witness read that he marked the Student would make self-deprecating comments and maybe had self-esteem as being significant issues, and had written below that "Expected for a ninth grader on varsity," and testified she was on varsity as a freshman. The witness testified the Students's interactions were always good with other students, she was likeable, coachable. When asked whether he thought the Student had implemented his suggestions between her freshman year and now when she is about to graduate, the witness said absolutely, that the Student is doing a lot better job and not getting down on herself so quick, that she is really good as to drills, picking up what they were trying to accomplish, on team concepts and individual concepts, that she has excelled.<sup>63</sup>

Looking at the Student's 504 accommodation plan developed during the end of January, beginning of February, 2018, the witness testified that with the Student being a basketball player, he would have received a copy of this document, that basketball is a class, the Student's eighth period class day. When asked if the basketball season is over for this year, the witness testified that starting in August they have pre-season conditioning and workouts, so August and

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<sup>61</sup> Vol. I, p. 134, l. 6, through p. 135, l. 19

<sup>62</sup> Vol. I, p. 135, l., 22, through p. 137, l. 15

<sup>63</sup> Vol. I, p. 139, l.18, through p. 141, l. 25

September is a lot of pre-season work, weights, conditioning, running, that in mid-October they begin games and go through February, and March begins post-season through the end of the school year, that it is a good load.<sup>64</sup> When asked if the Student ever left basketball class if she got overwhelmed, the witness testified there was one occasion last year, that he knew the Student saw one of the campus counselors, and she came back about 20 minutes late, but that was part of her 504 Plan accommodations.<sup>65</sup>

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<sup>64</sup> Vol. I, p. 142, l. 7, through p. 143, l. 24

<sup>65</sup> Vol. I, p. 144, l. 8-21

The witness testified that as Dean of Students he would be involved in the process for a Behavior Intervention Plan to make sure he could help monitor, with the teachers, the behavior, in not just the classroom but outside the classroom, whether it be in athletics or anywhere on campus, and they would also get parental feedback as to reactions at home also. The witness testified it would be an administrative decision, or the committee's decision if there is one involved, as to whether a Behavior Intervention Plan is to be developed.<sup>66</sup>

When asked if the Student ever told him she wanted to quit, the witness testified around March 30<sup>th</sup>, softball season was going on, and around Vista tournament the Student came in, she had lost some playing time and he told her that playing is earned, and she understood, that when she came to him she was unhappy her playing time had gone from almost a full game to roughly five, six minutes, saying she might quit and do softball since she was not playing, and he explained to the Student she did play and was part of the team.<sup>67</sup>

The witness testified he was made aware of the Student's IEP by Mr. Milligan, and he has the Student's 504 as well, so he knows the components to work towards on her IEP to make sure to give her the accommodations needed.<sup>68</sup> The witness testified that the Student was on the basketball team this year to the end, that she was in good standing, her grades and behavior were fine, she was coachable, likeable, and did well, being a starter on 33-35 of their 37 games, so her athleticism for Lead Hill was strong, and he always saw good rapport between the Student and the other players.<sup>69</sup>

The witness testified there was a female administrator in the locker room halfway through this year to make sure the camaraderie was good, and that there had been a catty incident during the season when they went through a four-game losing streak and there were some competitive players and uncompetitive players, but it was not directed at any one player, that there were a couple of players who told him they were yelled at by another player, but it did not involve the Student, and they had team meetings to fix the dilemma.<sup>70</sup>

**WITNESS NIKKI DAVIDSON**

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<sup>66</sup> Vol. I, p. 148, l. 2, through p. 149, l. 2

<sup>67</sup> Vol. I, p. 153, l. 6, through p. 155, l. 6

<sup>68</sup> Vol. I, p. 157, l. 19, through p. 158, l. 15

<sup>69</sup> Vol. I, p. 162, l. 22, through p. 164, l. 17

<sup>70</sup> Vol. I, p. 165, l. 6, through p. 168, l. 9

The witness Nikki Davidson testified she is the seventh and eighth grade science teacher, and provides support for the eSchool data input, administration, working at the school district since 2017. The witness testified that she has always been science teacher except for last year, when she served as counselor for Lead Hill. The witness testified she graduated from Valley Springs, Boone County, went to undergrad at the University of Arkansas at Fayetteville, and did her Masters in Leadership Education at the University of Nebraska at Lincoln. The witness testified her first job after graduating from the U of A was a 4-H agent for the U of A Division of Agriculture Cooperative Extension Service, which was a job in education. The witness testified after she completed her Masters in 2008, she worked for a pet products company, Oxbow Pet Company in Murdock, Nebraska as an education coordinator, then she worked through a computer company in Omaha, Nebraska, training Union Pacific Railroad engineers and conductors on how to do their computer tie-up, how they do their end-of-the-day reporting and start-of-the-week reporting. The witness testified she then worked as an AIMS for the University of Arkansas Division of Agriculture in Little Rock, an instructor position with the Extension Service, that AIMS is their data management, how they report to the federal government their contacts, so it is a reporting system similar to School for K-12. The witness testified Lead Hill was her first K-12 school work. The witness testified that she knew the Student, and that the Student had never come to her last year about any bullying, that this trial was the first time the witness was hearing it was a problem. The witness testified there was no other student the witness was not supposed to have in the same class as the Student, that there was a Virtual Arkansas class the Student wanted a particular instructor, Coach Rogers, but the witness believed that was for the quality of the course content.<sup>71</sup>

The witness testified she was not in charge of 504's or IEP's, but was involved in a couple of medical 504's committees. The witness agreed that if she felt a student was struggling, behaviorally, emotionally, some of the social issues, she would take action, that she would consult with the teachers first to see if they saw that in their classrooms, but if a student was having trouble with interaction she would go to them first and then ask around campus if others had noticed, and from there she would see if that was someone they needed to refer for mental health services, that last year there were two providers on campus, then she would try to help the family understand they could choose from the two options on campus. The witness testified that referral paperwork is sent home with the student and/or given directly to the parents, but if the parents choose not to initiate services, then the school tries to find ways to help as much as possible.<sup>72</sup> The witness testified that a 504 provides accommodations, while an IEP is individualized educational with specific criteria, and that to have an IEP the student goes through testing.<sup>73</sup>

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<sup>71</sup> Vol. I, p. 176, l. 11, through p. 178, l. 19, through p. 180, l. 6

<sup>72</sup> Vol. I, p. 181, l. 23, through p. 183, l. 18

<sup>73</sup> Vol. I, p. 190, l. 20, through p. 191, l. 15

The witness testified she was responsible for RTI for her science students, that she would work with her team to see if there are any deficiencies, what do they know about the student, what has been effective, what has not been effective, from there to the principal, the testing coordinator, who is also the curriculum coordinator, that it is a team effort to look for other resources to help the student. The witness testified there are documents available to show where a student is on their testing scores, what types of interventions are working or being effective, what other things have been done.<sup>74</sup>

### **WITNESS TAMI RICHEY**

The witness Tami Richey testified she is the Lead Hill school superintendent, in that position since June 2019. The witness testified that just prior to her current position she was the Bergman High School principal, and had started as a classroom teacher in 1988 or 1989, was a classroom teacher for thirteen years, then was a school counselor, K-12 2001-2002 for one at Lead Hill, then an elementary counselor at Bergman for kindergarten through fourth grade for nine years, then a testing coordinator curriculum for four, then the final four years at Bergman as high school principal. The witness testified as an elementary counselor she did classroom guidance lessons, at that time counselors had a piece in the IEP and 504 referrals, it was more about the socio-emotional, early career, looking at careers early on, and then any academics, so socio-emotional, academic and career counseling, and she also did some individual counseling and small group counseling and was part of the elementary leadership team, with input as to how things the team did affected students. The witness testified a superintendent plays little to no role in identifying students for evaluation, whether 504 or IDEA, while as a principal she required that all 504 and IEP referrals came through her.<sup>75</sup>

The witness testified that in June or July of 2019 the Student's mother asked to meet with the witness, and the parent visited with the witness about the particular student the Student was having issues with, and that the witness made a note to personally watch that situation if either of the two students were around where she was. The witness testified they had video cameras, and she once saw the Student approach the boy, but nothing happened, and it was her understanding he has not been on campus this year. The witness testified that the Student did come to her once about something with another student on the ball team, so that was something the witness checked on. The witness testified that she thought the Student's mother had come to her again, and although she could not recall specifics, she chose to place a female administrator in the locker room so nothing else came up, as a precautionary measure. The witness testified the Student did not tell her anything was directed at the Student, that she had said something like she did not want anyone to talk to her friends in a bad way, that it was late 2020. Talking about when the Student put her hand through the window in the locker room,

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<sup>74</sup> Vol. I, p. 196, l. 1, through p. 200, l. 15

<sup>75</sup> Vol. I, p. 202, l. 8, through p. 207, l. 1



the witness testified that was early in the season, probably October-ish.<sup>76</sup>

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<sup>76</sup> Vol. I, p.209, l. 3, through p. 214, l. 14

The witness testified she had not heard the Student had been cutting herself until this in the last few days. When asked if she had heard before this last couple of days that Noah had stepped on the Student's hand and admitted to grinding his heel, the witness testified that once she found out there were binders with discipline records in them, she read through them all, which has been within the last couple of months. The witness testified she had not known of the other student's actions until she read the binders. The witness testified this Due Process hearing process is the first time she saw the Student's 504 documents, as she does not get copies of 504 plans.<sup>77</sup> The witness testified that she would not be at the yearly meetings, that she is not involved in the IEP meetings, so just by default, because of this process, she ended up in the IEP meeting this time.<sup>78</sup>

The witness testified this year's graduating class has 38, and that the Student's rank is 13<sup>th</sup>. The witness testified she thought the Student wanted to be a social worker or something in that field, go to North Arkansas Community College, go to Arkansas Tech. When asked if she knew the Student's current ACT score and would it get her admitted to NACC, the witness testified she had not personally looked up the score, but understand it is a 19, and that they will accept students who score below a 19, that they just have to take some remedial classes based on ACT scores. The witness testified that based on discussions in this hearing, the Student falls just below that line.<sup>79</sup>

When asked what the school is doing currently to help the Student gain admission to NACC or any other Arkansas college, the witness testified that they are offering the ACT prep, boot camp, basically, that they have some teachers working on test-taking skills and what some released data, questions would look like. The witness testified she understood that a couple of teachers have included that in their regular instruction maybe weekly, and the ACT test prep started after Christmas at some point, which would be a matter of weeks, not months, that it has been going on. The witness testified she did not know whether the Student was participating, and that if a student wanted the counselor's help with college applications, they would just have to ask for it, email or stop by and talk.<sup>80</sup>

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<sup>77</sup> Vol. I, p. 215, l. 22, through p. 218, l. 23

<sup>78</sup> Vol. I, p. 221, l. 2-8

<sup>79</sup> Vol. I, p. 226, l. 5, through p. 227, l. 24

<sup>80</sup> Vol. I, p. 229, l. 9, through p. 231, l. 18

Looking at the Student's IEP, dated February 5, 2021, the meeting this witness attended, and specifically the Services Summary, the witness agreed the Student was to receive under her IEP 60 minutes of mental health services, once a week, beginning February 25<sup>th</sup>, and said there was an agreement it was to be with someone the Student was comfortable with, and further testified that these mental health services were not meant to address any new mental health issues as far as the witness knew. The witness testified there were nine weeks left of school. When asked in her opinion as an educator and based on her experience, if a 60-minute session once a week for nine weeks will address an average student's depression and anxiety that preexists over a period of more than two years, the witness testified she was not a mental health provider, and that she understood the Student had some services prior to with maybe the same counselor, she would say that over time it depends on the person.<sup>81</sup>

The witness testified that the Student's qualification for the IEP she went on in February was a Specific Learning Disability in math computation, which was determined following the psycho-educational evaluation. Looking at the IEP Schedule of Services, the witness testified it includes math, direct instruction in math five times a week, 30 minutes each time. When asked her understanding of what mental health the Student was receiving when the IEP was created, the witness testified she understood the Student had not been receiving services for a while.<sup>82</sup>

The witness testified she did not know the Student prior to coming to Lead Hill in June of 2019, so the totality of her interactions with the Student would be from 2019 to present. The witness again testified that the incidents involving the Student which the parent's counsel had brought out were not known to the witness until the binders were shared with her after December of 2020, it might have been February, and were all prior to her coming to Lead Hill, and that the only first hand knowledge the witness had as to the student Noah and his interactions with the Student was the one video she saw where the Student walked up and said something to the student Noah. The witness testified that was really no incident.<sup>83</sup>

The witness testified that the ACT test coming up in April, that generally they have one a month, except for maybe May, but she did not know where it was being hosted, but that North Arkansas College sometimes hosts, sometimes Valley Springs, that Harrison School District used to, but she would have to look up the schedule.<sup>84</sup>

**WITNESS FRANK MITCHELL MAGNESS**

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<sup>81</sup> Vol. I, p. 236, l. 22, through p. 239, l. 22

<sup>82</sup> Vol. I, p. 244, l. 6, through p. 245, l. 25

<sup>83</sup> Vol. I, p. 244, l. 6, through p. 245, l. 25

<sup>84</sup> Vol. I, p. 248, l. 7, through p. 249, l. 6

The witness Frank Mitchell Magness testified the Student is his granddaughter, and he is the father of the Student's mother. The witness testified that he stood in for his daughter as his granddaughter's parent contact for the school when the Student was in fifth grade, that he was generally known as her advocate, or substitute guardian given his daughter's employment with the school district in Lead Hill, that his daughter told him she was getting pressure from the district at the time, and that they suggested someone stand in, so she signed a document for the school for the witness to act for the Student rather than her parent. The witness testified he is the primary male figure in the Student's life besides her two uncles, that he has functioned in the role of a pseudo father, but also as an advocate when the Student needed something within the school district. The witness testified the Student's mother was no longer employed by the school, and the superintendent who required a stand-in was no longer the superintendent of schools now. The witness testified that for the last year or two, his role is more of a stand-in adult male figure rather than a guardian, that he and the Student were close, he taught her to drive, that they have conversations where he wants to make sure she is preparing herself for life.<sup>85</sup>

When asked if he spoke to the school during the Student's fifth grade year about an incident with the Student, the witness testified he did. The witness testified he spoke to the school again about issues the Student was having when she was in middle school. The witness testified during the Student's freshman year, the 2017-2018 academic year, he spoke to the school about issues the Student was having, and that in the fall of that year when the 504 plan was established for the Student, he was aware she was diagnosed with depression and anxiety and was aware that in her eighth grade year it was discovered she was cutting herself, and that and other issues were raised with the school. The witness testified he had a continual conversation with school employees that escalated from the original time of any incident on three occasions with Mr. Dickinson, three with Ms. Van Dyke. The witness testified he had no specific conversations with the current administration other than to say there had been issues in the past. The witness testified those were casual conversations, not in a scheduled meeting, and that the response to him was that all students have issues, and move forward from that, because at that time the parent was no longer employed by the school and was taking the role back, and Ms. Van Dyke was no longer superintendent.<sup>86</sup>

The witness testified the Student is now different than she would have been, that she was forever changed, having received notes and comments from individuals, threatening text messages, things like that the Student lived with on a daily basis. The witness testified there was a ball game where the Student asked if they could come because she was afraid to go to the locker room, so he and his wife went because the Student's mother was not there. The witness testified one morning the Student called him and said she was afraid to go to school, and he told her to go to the administration, that they would take care of her. The witness testified it

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<sup>85</sup> Vol. II, p. 5, l. 21, through p. 8, l. 16

<sup>86</sup> Vol. II, p. 15, l. 16, through p. 17, l. 22

bothered him to constantly have to reassure the Student, that she shared a lot with him when they were driving, and he thought she was numb to it after a while.<sup>87</sup>

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<sup>87</sup> Vol. II, p. 17, l. 24, through p. 22, l. 3

When asked if the Student ever had suicidal ideation within the last two years, the witness testified that he would say earlier on, probably, but that the Student was better adjusted now than she was, that maybe it was maturity, growing up, or the fact she is dealing with it. The witness testified that he thinks the Student can have a disagreement, even a vehement one, but still remain on good terms with someone, but that it will take a while for the Student to gain trust back with certain individuals in certain situations.<sup>88</sup>

When asked his opinion of whether the Student experienced a nurturing environment to learn, the witness testified he did not believe so. The witness testified there is drama in any teenage girl, but sometimes when the Student mentions she dreads going and she is frustrated by something or someone, that she is not going to do well in school, she is not going to put her full attention to it.<sup>89</sup>

When asked when did he have the first informal meeting with Ms. Richey when she was first hired and came to the district, the witness testified it was more in passing, along the lines of welcome to the school district, you are going to do a great job here, that he thought generally the staff was pleased there was a change in administration the summer of 2019. The witness testified he serves in another capacity at another school district, that both his sons are educators, his wife is an educator, his daughter is an educator, and he serves on the School Board, so they have more than a passing interest in education.<sup>90</sup>

When asked if the witness saw a marked difference in the way administration responded to the Student pre-Ms. Richey and post-Ms. Richey, the witness testified he did not know that there was a marked difference, as part of that is trust. When asked if there was a marked difference in the Student's 11<sup>th</sup> and 12<sup>th</sup> grade overall demeanor and well-being versus previous school years, the witness testified there has not been a marked difference, but the Student is more open, not as shut down as she was with the previous administration. The witness testified he did not have any of the type of interaction with the current administration he did with the previous, but said he would say the Student is doing better, whether through maturity or people helping her or a combination. The witness admitted it could possibly be the district is helping the Student change to the positive.<sup>91</sup>

When asked to concede that there were other issues in the Student's life outside of school that may have contributed to the Student's issues, the witness testified that he would concede that, that there were issues within the Student's relationship with her father and a few other things like that, and said he saw schools as the most important foundation, that there is nothing better than

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<sup>88</sup> Vol. II, p. 22, l. 4, through p. 23, l. 21

<sup>89</sup> Vol. II, p. 24, l. 25, through p. 26, l. 8

<sup>90</sup> Vol. II, p. 27, l. 6, through p. 28, l. 2

<sup>91</sup> Vol. II, p. 28, l. 11, through p. 31, l. 18

being face to face in a room with a teacher.<sup>92</sup>

**WITNESS MARK DITMASON**

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<sup>92</sup> Vol. II, p. 34, l. 23, through p. 35, l. 19

The witness Mark Ditmason testified he is the principal at Forest Heights Elementary in Harrison, has been there three years, and that before his current employment was the K-12 principal at Lead Hill for the 2017-2018 school year, and before that he taught middle school science for five years. The witness testified he got his undergrad degree from Arkansas State, his Masters in Educational leadership from the University of Arkansas, and also has an Associates. The witness testified he graduated with his Masters in 2018 and was on an ALP his first year there, which is Alternative license something, which allows you to act in an administrative role before your degree is technically all the way finished, while you are working toward it.<sup>93</sup>

The witness testified he recalled the Student being at Lead Hill while he was the K-12 principal and as a teacher. The witness testified he knew the Student's mother, who was employed by the school district while the witness was the K-12 principal, they were colleagues. The witness testified that Wanda Van Dyke was the superintendent the last year he was the K-12 principal, and that during that time concerns about the Student were brought to him, that he spoke to the Student's mother, the Student, and Noah Jeffries, and that the Student's grandfather sat in on one meeting when the Student and Noah Jeffries signed a "no-contact" contract after the bullying investigation, and that he thought things were resolved. The witness testified the Student's grandfather was upset about the contract.<sup>94</sup>

The witness testified he did remember a document that had "six pills" all over it that Noah had handed to the Student, but did not remember what it meant, he just remembered it was part of the bullying. The witness testified he reported his findings to Wanda Van Dyke.<sup>95</sup> The witness testified he was the Student's principal for the 2017-2018 school year when she was a ninth , grader, and has not interacted with her since in any way.<sup>96</sup>

### **WITNESS SHANNON POPEJOY**

The witness Shannon Popejoy testified she is the Lead Hill high school math teacher and softball coach, and has worked there half a year. The witness testified the Student is in the witness' Quantitative Literacy class and on the witness' softball team. The witness testified she is a member of the Student's IEP team. The witness testified she got her undergrad from ASU Mountain Home in 2019, and she also has an Associates degree. The witness testified she worked at Jasper High School in her first teaching position as the high school math and eighth grade computer science teacher for one academic year, then came to Lead Hill.<sup>97</sup>

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<sup>93</sup> Vol. II, p. 41, l. 23, through p. 44, l.16

<sup>94</sup> Vol. II, p. 44, l. 17, through p. 48, l. 3

<sup>95</sup> Vol. II, p. 51, l. 6-25

<sup>96</sup> Vol. II, p. 54, l. 10-16

<sup>97</sup> Vol. II, p. 56, l. 1



Explaining RTI, Response to Intervention, the witness testified it is how they as teachers plan lessons around it to respond to a student's individual needs or the levels in which they may need help. The witness explained there are three levels of RTI, that the main level is the one on which all students are, then depending on what work, tests and assessments show, the teachers figure out and implement steps to help, then for students who still need help, the third level is Ms. Richardson, who is in charge of 504 or RTI things, or if she is not the person she will get the teacher in contact with the next person. The witness testified how she determines this is to assess what she is teaching, are the students getting it, are they learning what they need to, are they following at the rate they need to be, and if she sees any are not, she has them go to intervention, which is sixth period for all students, where students who need help get individualized lessons to catch up, but if after that the students are still behind or need more help, she goes to someone else for assistance. The witness testified students can also come in themselves and ask for intervention and not to go to Special Ed.<sup>98</sup>

When asked about her relationship with the Student, the witness testified she is a really good student, that they have a good relationship, that if the Student has a question she asks it, and if she feels she needs extra help she tells the witness. The witness also testified she can tell when the Student is upset, that she has observed that in the classroom. The witness testified that other students have upset the Student in the witness' classroom, that there were like two incidents the first semester with the same student, Faith Schultz, where they were bantering back and forth before the witness' class and it spilled over into the classroom, but that the Student left class about ten minutes and then was fine.<sup>99</sup>

The witness testified that in her role as coach she has not seen the Student being upset, that the team as a whole argues and fights, teenage girl drama, and they are working on those skills, and the one student the witness kicked off the team had interactions with the Student or other students.<sup>100</sup>

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<sup>98</sup> Vol. II, p. 57, l. 18, through p. 61, l. 18

<sup>99</sup> Vol. II, p. 61, l. 21, through p. 63, l. 22

<sup>100</sup> Vol. II, p. 63, l. 23, through p. 64, l. 15

The witness testified the Student had talked to her some, but not much, as to her difficulties before the witness came, saying a few things like she was behind on stuff, that she felt she had not had a math teacher who has listened to her, but that was not just the Student, it is a lot of students there.<sup>101</sup> The witness agreed the Student has a Specific Learning Disability in math, that while some students think they are the team, they are working on being a team that builds each other up and does not knock people down, that positive feedback among the players is encourages, and negative feedback is supposed to be routed through the witness, but is not always. The witness testified that last night was a good example, that they played a 3A school, and she did not see a lot of fighting, she saw a lot of encouraging each other. The witness testified she had seen a situation where on the softball team one or two teammates would be screaming at another, but she tries to take the girls aside individually and if it needs to be addressed right then, it is.<sup>102</sup>

When asked what she does at the first of the school year before starting to teach the Student math, the witness said that instead of looking at prior assessments or school records, her usual practice at the first of the year, in August, is that she gives assessments to see where her students are, like especially last year, because they did not finish the year out, so most students are behind or they did not get the finished lessons because of COVID. The witness said the assessment may be a small, five-question quiz, ten-question quiz, just to see what they know, and that is what she did with the Student at the start of this school year. The witness said had the Student been a sophomore as opposed to as senior, she would also have looked at the STAR testing, but that is not given for 11<sup>th</sup> and 12<sup>th</sup> grades.<sup>103</sup>

The witness testified she was in the IEP meeting when Christine Sessions presented her reports and heard the Student's Confidential Psycho-educational Evaluation from the beginning of the semester. The witness testified from her recollection the Student's strengths were in percentages and her weaknesses were in basic math calculations, operations, like algebra operations. The witness testified she was a little surprised at the results when the team was discussing them, since the Student excels well in the life skills stuff being taught to get students ready for life after school, but because she had done the ACT prep with the students she saw the Student did struggle a little. The witness testified she is doing ACT prep with the Student currently, but the Student has not shown up for any of the after-school sessions which began the week after the IEP meeting. The witness testified those sessions are one day a week, the day depending on students' schedules. The witness testified that her part of the sessions are as to math. The witness testified the Student is still in her Quantitative Literacy Class, and her understanding of the Special Ed math the Student is to receive is she is supposed to be working on basic math operations and algebra, basic algebra and math operations, and that is the responsibility of Mr.

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<sup>101</sup> Vol. II, p. 64, l. 16-23

<sup>102</sup> Vol. II, p. 64, l. 24, through p. 68, l. 12

<sup>103</sup> Vol. II, p. 70, l. 15, through p. 72, l. 6

Milligan during intervention.<sup>104</sup>

The witness testified she had not been aware the Student had been diagnosed with depression and anxiety before the IEP meeting, but she had seen some of it in her room, the anxiety. When asked if the anxiety the witness had observed was about the work, the witness testified it was about what other students think about the Student.<sup>105</sup>

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<sup>104</sup> Vol. II, p. 72, l. 15, through p. 77, l. 2

<sup>105</sup> Vol. II, p. 77, l. 5, through p. 78, l. 1

When asked if she would be willing to provide the Student with tutoring to work on her ACT, the witness testified she would make that available to the Student. The witness testified she also puts it in her curriculum, so the students get about four weeks of ACT prep in that. The witness testified the Student did pretty well with that, and the witness could tell the Student was not just finding answers online and putting them in, and they discussed the ones she got wrong. The witness said she was not really surprised the Student had not come to the witness' ACT prep, as she knows the Student is really busy, with softball and softball practices, and has a lot to do, but at the same time the witness was surprised because she knew the Student wanted to pass her ACT. The witness said she did address that with the Student, but the Student just blew her off.<sup>106</sup>

When asked if a 15 on the math ACT means a student cannot get into community colleges, the witness testified she did not know what the score was, but that it means they just need to re-take, and that she as a teacher encourages students to take the ACT as many times as possible, since with higher scores they can get scholarships, better colleges, even a full ride to anywhere, but that they can still get into community college and maybe have to take a remedial course. The witness testified she knew the Student is wanting to improve certain areas of her ACT.<sup>107</sup>

The witness testified that her Quantitative Literacy class is one that helps students get their skills for further on in life, that they do budgeting, they buy a house, they rent a house, insurance, credit cards, how to fill out checks, several social skills and different things to get them ready for life outside of high school. The witness testified she teaches the students how to budget their paychecks and where they need to spend it, what renting and buying a home is like, she does scholarships, internships, how to get in college, basic life skills, credit cards, debit cards, there is a lot to go with it. The witness testified the Student has done well in the witness' class. The witness testified that there have been instances where the Student did not understand, and the witness helped her understand it so the Student did not need intervention.<sup>108</sup>

Asked about how the Student does socially, in softball, the witness testified that in softball the Student is a leader most of the time, that the girls look up to the Student and go to her if they have a problem or something, and she is one of the only seniors, having been in softball since ninth grade year.<sup>109</sup>

### **WITNESS MADISON RULEY**

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<sup>106</sup> Vol. II, p. 78, l. 23, through p. 80, l. 25

<sup>107</sup> Vol. II, p. 81, l. 23, through p. 83, l. 13

<sup>108</sup> Vol. II, p. 88, l. 10, through p. 90, l. 7

<sup>109</sup> Vol. II, p. 90, l. 10-23

The witness Madison Ruley testified she is the K-12 counselor at Lead Hill schools, having held that position just this year. The witness testified she got her undergrad through Western Governors University online, that she is working on her Masters in school counselor currently through Arkansas State University and is approximately halfway through the 16-18 month program, having begun in Jun of last year. The witness testified this is her first job after completion of her undergrad degree.<sup>110</sup>

The witness testified she did know the Student, having met with her three or four times individually, the first time the first month of school for Student Council, that the Student had been elected as a Student Council representative by her peers and the witness was in charge of Student Council. The witness testified the second time was probably when the Student was elected for homecoming as a maid, to go over guidelines as to dress attire, escorts, that sort of thing. The witness testified she met with the Student this semester a couple of months ago probably, in January or February of this year, that the Student wanted to go to Arkansas Tech University to obtain a four-year degree in psychology, and had come to the witness to get a fee waiver for the ACT and get help registering for the ACT. The witness testified she did help the Student register for the ACT and did receive a fee waiver.<sup>111</sup>

When asked if she knew the admission requirements for Arkansas Tech, the witness testified she did not know, that it was probably at least a 2.0 GPA, an ACT score of 18 maybe, and that she did know a lot of that has to do with financial aid, as well, minimal behavior issues, disruptions. The witness testified that she thought the Student would meet the standards for admission requirements at Tech. The witness also testified she believed students could be admitted to Teach with grades or ACT scores that are lower than those admission standards, but believed the numbers affect financial aid.<sup>112</sup>

The witness testified she was acutely aware of the Student's mental health diagnosis of anxiety only and knew there is an IEP for allowing her to leave the classroom if she becomes anxious, but she has never spoken to the Student about this. The witness testified she became aware of the anxiety and accommodations for that when she reviewed the Student's IEP about the time of its development, February 25, 2021. The witness testified that if a student had a behavior issue the witness felt needed to be escalated, the witness would discuss it with Ms. Parks.<sup>113</sup>

### **WITNESS SUZANNE PAUL**

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<sup>110</sup> Vol. II, p. 93, l. 22, through p. 95, l. 10

<sup>111</sup> Vol. II, p. 95, l. 16, through p. 98, l. 6

<sup>112</sup> Vol. II, p. 98, l. 12, through p. 99, l. 17

<sup>113</sup> Vol. II, p. 103, l. 14-17

The witness Suzanne Paul testified she knew both the Student and the Student's mother. The witness testified she works for the Flippin School District, but worked for the Lead Hill School District from 2002 to 2019. The witness testified she first worked at Lead Hill as a first grade teacher for a year, then third grade for a year, that while at Lead Hill she taught every grade level elementary, she was in middle school, she taught math, literacy and social studies, was math curriculum chair, was on several things there and whatever the school needed her to do, she did a little with the crisis management team, and her last five years there, 2014-2019, she did K-12 counselor. The witness testified she had an ALP to complete in two years, as one of the three years had already been used by someone else. The witness testified she got her undergrad from College of the Ozarks, and she completed her Masters as reading specialist from University of Central Arkansas and also have Title I reading there, and completed her Masters in school counseling at UCA in August 2016. The witness testified the APSCN role she held at Lead Hill was entering student information into the state system and eSchool. The witness testified that being part of the crisis management team was creating plans for any crisis situation that might occur on campus, such as active shooters.<sup>114</sup>

The witness testified that while she was the K-12 counselor she did have conversations with the Student about bullying. The witness testified that as the counselor it was their responsibility to make sure students understood the difference between being rude, mean, and bullying, and she met with each grade. The witness testified she created a survey in Google Classroom for the students on that, and she believed the Student would have been in eighth or ninth grade then, and the Student's class had about a 30% understanding of it and 70% was wrong—they all thought that everything was bullying for the 70% of them, that nothing was rude and nothing was mean. The witness testified that after a few more meetings the students' understanding improved, but there was still 30% who said everything was bullying, and 70% understood the difference by the end. The witness testified she remembered two meetings with the Student where the Student was pretty vague; that the witness had gotten a referral from one of the teachers, and the Student was crying and needed a place to go, there was a boy had said some hurtful things to the Student, but the Student would not open up much, and said she would get over it and it would be fine, she just needed a place to go, and then the second time it was the same student and the Student was a little more upset and named the student and wanted something to happen to the student. The witness testified at that point the male student was referred for discipline for repeated offense. The witness testified no part of the referral from the teacher, Heath Richardson, addressed that he had discovered the Student had been cutting.<sup>115</sup>

The witness testified that she was the K-12 counselor during the Student's sophomore year, 2018-2019, and in her role as counselor spoke to the Student about what she wanted to do after graduation, if she wanted to go to college and some scholarships she might be looking towards for her future, that careers is part of their three-fold commission, and that would probably have

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<sup>114</sup> Vol. II, p. 105, l. 2, through p. 108, l. 9

<sup>115</sup> Vol. II, p. 109, l. 16, through p. 115, l. 1

been eighth, ninth, tenth grade. The witness testified she also had conversations with the Student when she came in with a couple of her friends to just hang, she was also in ETS, the Educational Talent Search Program they had, and that met monthly. The witness testified the Student was kind of quiet and reserved, kind of kept to herself, even when questioned.<sup>116</sup>

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<sup>116</sup> Vol. II, p. 115, l. 2, though p. 116, l. 10

The witness testified she did have occasion to have seen the Student's 504 plan implemented during her freshman year, as the witness was notified the Student may, during the day, need a place to come because they had put in her 504 plan she was able to leave if she was having a mental breakdown, th witness said she guessed, but said she did not know the Student was diagnosed with anything, and that sometimes in 504's it is broad, that you do not necessarily have to have a specific diagnosis.<sup>117</sup>

### **MELISSA PARKS**

The witness Melissa Parks testified she is the K-12 principal at Lead Hill School, this is her second year. The witness testified her job responsibilities include teacher evaluations, student discipline, morale, various programs dealing with teacher prep, professional development, curriculum, anything to do with student learning. The witness testified she has been in the public school business for 31 years. The witness testified there are 38 seniors this year, and they are all pretty close on track to graduate.<sup>118</sup>

The witness testified she knew the Student, having first met her when the witness came to work for Lead Hill in July when she and her mother came into the main office. The witness thought she had met the Student's mother previously. The witness testified she interacted with the Student on a weekly basis, sometimes more, as the witness goes in and out of the classrooms at the high school a lot, when they are having activities, she is always at activities, baseball games, lunch times, free time in the hallway, she tries to be visible and interact. The witness testified the Student is very pleasant, usually has a smile on her face, sweet nature, pleasant, she is a good leader, is the Senior Class President by student vote at the beginning of the year when she beat her opponent, and she is Student Council President. The witness testified that Senior Class President presents ideas, that the witness had been in several of the meetings the Student led, where they voted on mottos, their songs, graduation things, and so forth. The witness testified the Student was a good leader, she is real vocal, writes things down, ideas, presents ideas. The witness testified the senior class officers organize their fund-raising events and the Student is an active part of that. The witness testified the Student was involved in homecoming this year, she was voted a senior maid by her peers, that maids represent their class, they dress up and walk at half-time, they have an assembly usually where they are presented to the student body as the maids representing their class and then they get to take part in the half-time ceremony at the basketball game, but this year they just did an assembly at night during the basketball game. The witness testified that the Student is vice-president o FFA, softball and basketball. The witness testified that in her interactions with the Student, she never perceived the Student to have any type of social issues, and she does very well with her peers, nor did the witness recall any behavioral issues with the Student.<sup>119</sup>

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<sup>117</sup> Vol. II, p. 116, l. 14, through p.117, l. 2

<sup>118</sup> Vol. II, p. 126, l. 15, through p. 127, l. 23

<sup>119</sup> Vol. II, p. 127, l. 24, through p. 133, l. 24



The witness testified that in September of 2019, the Student came to her and talked to her about some behaviors that a student named Noah had exhibited that fall, saying he would say things to her where no one else could, to make her feel bad about herself, bump her in the hallway. The witness testified the Student was a little emotional, but was pretty matter of fact. The witness testified she then called Noah to the office and addressed the matter with him, and warned him that type of behavior, bullying, would not be allowed and it would be addressed with strict discipline. The witness testified that Noah left campus in October to do online schooling. The witness testified that this school year there was an incident with the girls on the basketball team squabbling bickering, arguing or one was mad at the other, and the Student and her mother came to the witness' office about it. The witness testified in response there was a discussion with the entire basketball team about working as a team, getting along, and not exhibiting these behaviors, and Coach Munday was present also. The witness testified that from her perspective that resolved the matter.<sup>120</sup>

The witness testified she knew the Student was on a 504 plan before school started in 2019-2020, as she was given a list of all 504 plan students because she is the principal, and as the instructional leader for the school, she would need to know how to work with teachers to make sure what needs to be followed through and laws and rules of a 504 plan. The witness testified that the Student's 504 plan allowed her to go outside the classroom when she was anxious or over-stressed and needed to take a break or calm down. The witness testified if the Student's anxiety got the better of her she could come to the office or the library, go outside the classroom, to the restroom, and take a walk to cool off.<sup>121</sup>

The witness testified she had no knowledge of the Student receiving any school-based mental health counseling, that she knew the Student's mother filled out forms for this year in about November, then the school lost its therapist. As far as the process for school-based mental health counseling at Lead Hill, the witness testified they house referrals in the office for convenience, and there are two private mental health agencies that serve Lead Hill, Chenal and Burrell Health, that Burrell Health used to be called Youth Bridge. The witness testified Chenal has a spot in one building and Burrell has a spot in the other building to provide mental health services to students. Since the services are at school, the students do not miss so much school. The witness testified both groups are provided a place, a room, a classroom, a place they can do small groups, a place they can do lunch groups, a place they can do their individual counseling, and the records are private records with the counseling agency. The witness testified that to see mental health records and medical diagnoses, it would have to be obtained and shared from the parents.<sup>122</sup>

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<sup>120</sup> Vol. II, p. 133, l. 25, through p. 137, l. 25

<sup>121</sup> Vol. II, p. 138, l. 1, through p. 139, l. 5

<sup>122</sup> Vol II, p. 139, l. 6, through p. 143, l. 1

When asked her understanding of what the high school provides for ACT support, the one on which to go to college, the witness testified ACT prep, ACT test items, released test items, they have a dedicated 35-minute intervention period right after lunch, and students can get additional prep time with their instructors.<sup>123</sup>

The witness testified the Student goes to Mr. Milligan's room for her intervention, and before the IEP change recently the Student went to Ms. Popejoy for intervention. The witness testified that as far as structure, if a student does not need intervention or remediation, it is more of an enrichment time for them, that if they are carrying a certain average, they can choose to go work on another project in another class or they can go to other teachers, and if they need the intervention or remediation, then their work intervention is based of test data, how they are doing in the classroom, how they are doing on their ACT Aspire. The witness testified that teachers have started providing some voluntary ACT prep on their early out days, which are days the teachers can work with the online students or ones who need additional help, and that is available to all students.<sup>124</sup> The witness testified the Student's qualifying disability for her recent IEP was math calculation, which occurred through a recent IEP meeting.<sup>125</sup>

Looking at the TRIAND Transcript Record, the witness testified the Student's 2019-2020 math class last year was Algebra two, and semester one her grade was 88, and semester two her grade was 84, the math teacher then was Shannon Torell, who is no longer teaching in the district. Looking at the Student's grade report for math class this year with Ms. Popejoy, the witness testified the Student's grade for quarter one was 99, and quarter two was 97. The witness testified that the Student's math class, Quantitative Literacy, is not the only senior level math, or fourth credit math available for Regular Ed students, that they also offer algebra three, that some years about a third of the students are taking the same class as the Student, about a third are taking algebra three, and the final third are taking college algebra through Virtual Arkansas.<sup>126</sup>

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<sup>123</sup> Vol. II, p. 143, l. 2-20

<sup>124</sup> Vol. II, p. 144, l. 2, through p. 145, l. 10

<sup>125</sup> Vol. II, p. 146, l. 23, through p. 147, l. 4

<sup>126</sup> Vol. II, p. 147, l. 5, through p. 149, l. 10

When asked if the witness had seen the Student stand up for herself when challenged, the witness testified that in senior class meetings she stands up for herself and is vocal about what she believes and why and is pretty firm. The witness testified most of the time it is the boys challenging the girls. As to the basketball team squabbling about which the witness testified earlier, the witness testified there was a second incident sometime after Christmas the Student and her mother discussed with the witness, and after that the girls were talked to and they began having an administrator in the locker room during games. The witness testified that last year, during the 2019-2020 school season, there was a conversation with the Student about Noah throwing things across the cafeteria at the Student, which was before the witness had talked to Noah about bullying activities. The witness testified there was a conversation this year with the Student about she and another student having gotten into an argument in Ms. Ribando's room during lunch time where they were eating, and the witness told them they must get along to be able to eat in there. The witness testified that to the best of her recollection the other student was Will Massinelli, but did recall that by the time she walked in, they told her they had both worked it out and were good. The witness testified that the Student had thrown a drink at the other student, and that the Student told her she was upset with something that was said, but it had been resolved. The witness testified that after that she kept tabs on whether the group in Ms. Ribando's classroom were getting along and told her that if they could not get along, they could not lunch there, and until a phone call today from Ms. Ribando, she heard nothing more.<sup>127</sup>

#### **WITNESS CASSANDRA ELLEDGE**

The witness Cassandra Elledge testified she knows the Student as a client in the witness' mental health practice and is the Student's mental health counselor.<sup>128</sup> The witness testified she holds a Master's degree in science, she is a licensed professional counselor, a nationally certified counselor, a certified Seed Digging professional, advanced level, a certified Mental Health Integrative Medicine provider, and just completed a training for Eye Movement Desensitization Reprocessing for post-traumatic stress disorder. The witness testified her undergrad degree is in psychology at Arkansas Tech University.<sup>129</sup>

The witness testified she first met the Student in 2018 when working at Youth Bridge. The witness testified she stopped working at Youth Bridge in 2019. The witness testified that Jacob Mays was the M.D. who worked for Youth Bridge who did medication, that if a client needed medication and was referred to him, he saw them for medication, but the witness did not work closely with him.<sup>130</sup>

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<sup>127</sup> Vol. II, p. 149, l. 25, through p. 158, l. 15

<sup>128</sup> Vol. II, p. 167, l. 20, through p. 168, l. 4, and Vol. II, p. 169, l. 10-16

<sup>129</sup> Vol. II, p. 169, l. 21, through p. 170, l. 16

<sup>130</sup> Vol. II, p. 170, l. 24, through p.172, l. 12

The witness testified that she thought Dr. Mays was a psychiatrist, but did not know for sure. The witness testified Dr. Mays was not at the same location, that there was a nurse practitioner there named Vanessa Allen who might have met with the Student. The witness testified that the process was a therapist would prepare an intake document and meet with the client and parents, create a diagnosis, then determine a treatment plan; the document had to be reviewed and signed off on by the M.D. or psychiatrist, then it was typical that they would automatically schedule an appointment with the nurse practitioner. The witness testified that for the Student the witness requested what they called QBHPs, additional services for her at the time. The witness testified that Katie Phillips, who was a QBHP, also worked with the Student. The witness testified she was not sure what QBHP stands for, and that when the witness went to work there they were called MHPPs, which means Mental Health Paraprofessional, but the job was the same although the name was changed due to Medicaid.<sup>131</sup>

When asked what services Katie Phillips provided for the Student, the witness testified that she would probably have put it in the intake, that she was pretty sure Ms. Phillips would have met with the Student about weekly, that in the treatment plan she would have been allowed to go into the home if needed, with the patient and the parent/guardian for therapeutic. The witness testified that she would meet with the Student once a week, and Ms. Phillips would meet with the Student once a week, and probably other times as needed. The witness testified after the intake in 2018 the Student came to the Harrison location of the witness, and the witness believed the Student met with Ms. Phillips at the school, since Youth Bridge was the school-based mental health provider for Lead Hill at that time.<sup>132</sup>

Reviewing the Transition/Discharge Criteria/Plan, the witness read off that the Student was a 15-year-old female who experienced bullying by a group of classmates for three years, that she was taking antidepressants and has discovered low levels of iron which she was being treated for by her PCP, that the mother wanted to see the Student focus on her understanding and appropriately expressing emotions, process suspected childhood trauma, and improve self-worth. The witness testified the Student was on antidepressants before coming to the witness for therapy, so she would not have seen the nurse practitioner first before seeing the witness. When asked what she identified as problem number one for the Student, under Goals and Objectives, the witness read the document, reciting that the Student experienced anxiety and anger issues, triggers from being bullied by classmates, traumatic events, and lack of self-love. The witness testified services requested by her were counseling sessions with the family and individual family member therapy sessions without the Student present, telephone peer support where the Student could speak on the phone with Katie Phillips 15 times in a 6 month period if she needed to, that crisis stabilization intervention be available if the Student was in a crisis and was unable to regulate her emotions and needed to go in and be seen with the witness or Ms. Phillips, also to

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<sup>131</sup> Vol. II, p. 172, l. 13, through p. 175, l. 3

<sup>132</sup> Vol. II, p. 175, l. 4, through p. 176, l. 3

work with parents and family members on verbiage to use love language in responding to someone in crisis and the verbiage to be used so it is therapeutic. The witness testified there were also life skills to be provided, how to process in social settings, healthy conflict resolution, how to appropriately respond to someone who says something that hurts your feelings, to consider your emotions in responding, how to respond to bullying and not escalate, processing emotions.<sup>133</sup>

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<sup>133</sup> Vol. II, p. 177, l. 2, through p. 188, l. 6

Looking at the Diagnoses, the witness testified she diagnosed the Student 10-20-18 with “Post-Traumatic Stress Disorder.” The witness read number three was “Adjustment disorders, with mixed disturbance emotions and conduct,” diagnosed by K. Manes, RN, in September of 2017, before the witness saw the Student, so that diagnosis record would have been either from medical records or verbally from the Student or her mom. Looking at the functional assessment, the witness testified that it would have been done during intake, but she did not remember what the scale was, but mood disturbances was a one, anxiety was a two, medical conditions a one, job or school performance a three, impulsive, reckless or aggressive a one, peer or family relationship problems a two, and problems with activities of daily living a one. The witness testified she thought the Student was really struggling in most areas because of what was going on with being bullied at school. Explaining the tier ratings, the witness testified it was more for Medicaid, that the more severe the condition, the higher the tier, that Tier 3 would be institutionalization or in a rehab center or behavioral health center, that Tier 2 was that services were needed but less than Tier 3, and Tier 1 was where someone just needed situational or temporary services. Looking at a letter from the Arkansas Department of Human Services, Division of Medical Services, to the Student, dated June 21, 2018, which identified the Student as Behavioral Health Tier 2, the witness testified she had not seen that letter, that they go to the client, so it was before intake with this witness. The witness testified that would be abnormal unless the Student was seeing a therapist before the witness at a different location, as a mental health counselor does not determine a child’s tier, that the intake documentation goes to Medicaid to determine tier. Looking at the Student’s assessment results for Arkansas Medicaid, the witness testified she had never seen that before for anyone, not just the Student.<sup>134</sup>

Looking at what she requested for the Student, the witness testified she requested 12 hours over 90 days, about 4 sessions a month, which would be weekly. The witness testified she would not have expected the Student to not need services after 90 days, that reflects a policy of someone else, not the witness’ decision, and that the Student in fact still sees the witness for Individual Behavioral Health treatment, that the witness does not expect to be resolved in the next ninety days.<sup>135</sup> The witness testified she saw the Student weekly from the fall of 2019 through the fall of 2020 when the witness left Youth Bridge, and the Student had Medicaid. The witness testified she has now had two sessions with the Student this year.<sup>136</sup>

### **WITNESS PARENT**

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<sup>134</sup> Vol. II, p. 188, l. 25, through p. 197, l. 9

<sup>135</sup> Vol. II, p. 199, l. 19, through p. 202, l. 8

<sup>136</sup> Vol. II, p. 208, l. 23, through p. 209, l. 18

The witness PARENT testified she is the Student's mother. The witness testified she got her undergrad in Early Childhood Education from Arkansas Tech, and an online Master's degree in Special Education pre-school through fourth grade in 2014 from Arkansas State University while working at Lead Hill, as well as an endorsement of K-12 Special Education from Arkansas State University in December of 2018 that was required by the previous administration at Lead Hill. The witness testified her first teaching job was teaching pre-school for three years at Lead Hill School District. The witness testified her next teaching job was the K-6 Special Education teacher, and while she had no Special Education training or certification then, she had enrolled to begin the program so was on an ALP, and held that position approximately seven years, until she left Lead Hill in May of 2018. The witness testified when she was on an ALP in her role as the K-6 Special Ed teacher, her supervisor was Lesa Barksdale, who is still over Special Ed at Lead Hill. The witness testified she met on occasion with Ms. Barksdale while the witness was the K-6 Special Ed teacher, as that was where most of the witness' Special Ed training or knowledge came from.<sup>137</sup>

The witness testified that last year she was the Assistant Director of Special Education for the school she works for now, and that she is still learning. The witness testified that she became the Director of Student Services this year with intense training, and has learned a lot.<sup>138</sup> The witness testified that in her role as the K-6 SPED teacher they do not oversee RTI, that is going to happen before a child is placed in Special Education, so she was not hands-on with the RTI process.<sup>139</sup> The witness testified she is currently pursuing education specialist of educational leadership through Arkansas State University, and will complete the program in December of this year, that it will be beyond a Master's degree but not a Ph.D., that she will be working toward that.<sup>140</sup>

The witness testified the next position in education she held after leaving Lead Hill was a teacher for Arkansas Connections Academy, teaching Special Education for elementary and middle school. The witness testified the next position she held was Assistant Director of Student Services beginning at the end of the last academic year, and this year her title is Director of Student Services for Arkansas Connections Academy. The witness testified that Arkansas Connections Academy is an online, virtual charter school in Arkansas, that she serves approximately 360 Special Education students, and that the total of students in the Academy is

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<sup>137</sup> Vol. III, p. 5, l. 19, through p. 7, l. 22,  
Vol. III, p. 16, l. 12-25,  
Vol. III, p. 120, l. 18, through p. 21, l. 14, and  
Vol. III, p. 23, l. 3-10

<sup>138</sup> Vol. III, p. 8, l. 24, through p. 9, l. 12

<sup>139</sup> Vol. III, p. 9, l. 16, through p. 10, l. 3

<sup>140</sup> Vol. III, p. 17, l. 1-14

slightly less than 3,000.<sup>141</sup>

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<sup>141</sup> Vol. III, p. 17, l. 19, through p. 19, l. 3



When asked what a teacher would need to look at to determine if a student might need RTI, the witness testified they would need to look at test scores, grades, teacher input, parent input, regarding any behaviors or academic struggles, that there is summative and formative testing, that testing is done throughout the year to monitor progress versus end-of-year-testing to determine growth, that typically you look at the previous year, at times at previous years, depending on what you are seeing. The witness testified that teachers who are familiar with the students typically have a general idea of a student's performance over the years, but if a teacher is not familiar with the student, then you would want to see more data on the student, and that patterns or major changes would be relevant.<sup>142</sup>

The witness testified she was employed by the Lead Hill School District as a K-6 Special Education teacher during the Student's 2016-2017, eighth grade school year. The witness testified she was off part of that academic year for maternity leave, her youngest son being born December 2016.<sup>143</sup>

Testifying as to her relationship with Wanda Van Dyke, the witness said she had a miscarriage in 2015 that required an ambulance, emergency surgery and hospitalization, and that she had to be the one to call in and did so the next day from her hospital bed, which was not the witness' first run-in with Ms. Van Dyke. The witness testified that at one point she had to write a letter to the School Board addressing her concerns and for the hostile work environment she was in, and that her next step would be legal action.<sup>144</sup>

The witness testified that she returned to work roughly March 2017 after the birth of her son, that Heath Richardson told her he had seen some marks on the Student indicating she was cutting, and that the witness then spoke to Suzanne Paul and asked if she would speak to the Student. The witness testified she believed there was one conversation between Ms. Paul and the Student.<sup>145</sup>

Looking at the Treatment Plan Cassandra Elledge testified earlier she had authored for the Student dated October 20, 2018, the witness testified that she believed the diagnosis for the Student of Adjustment Disorders, with mixed disturbance of emotions and conduct was by Kelly Manes, R.N., the mental health provider with Youth Bridge at the Lead Hill campus at one point. The witness testified she thought that diagnosis would have been September of 2017, the Student's freshman year.<sup>146</sup>

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<sup>142</sup> Vol. III, p. 24, l. 12, through p. 26, l. 1

<sup>143</sup> Vol. III, p. 26, l. 2-14

<sup>144</sup> 2015 Vol. III, p. 26, l. 25, through 27, l. 6, and p. 29, l. 10, through p. 30, l. 22

<sup>145</sup> Vol. III, p. 30, l. 23, through p. 31, l. 25

<sup>146</sup> Vol. III, p. 32, l. 4, through p. 33, l. 6

When asked if the Student received any mental health support or treatment between the end of the school year before the diagnosis and the fall of the next year, the witness testified she did not recall details of conversations with school employees, many of which were informal because the witness was an employee there, since she was diagnosed with severe postpartum depression and placed on medication. The witness testified that her struggles were to the point law enforcement was called to her home and she and the children had to be removed, so it was difficult to remember conversations and timelines. The witness said she did recall speaking to Kelly Manes at one point when she was in the process of changing employment, but could not recall if Ms. Manes was starting intake with the Student or they were just having an informal conversation.<sup>147</sup>

Looking at the Section 504 referral the Student's 2017-2018 ninth grade academic year, the witness testified she authored that document, dated 11-27-17, looking at areas she had marked for high concern and some concern for the Student, the witness read off the areas of high concern were attendance, low self-esteem, attention span and frustration threshold. As to the area of attendance, the witness testified the basis for her high concern was Youth Bridge could not provide services to the Student on campus since the witness' aunt was going to be the provider and could not do so due to ethics, so in order for the Student to receive those services, she would have to leave campus, which would be an attendance issue. The witness agreed that part of the reason for the referral was to get the Student access to mental health services that would not affect her attendance records at school. The witness testified the basis for her high concern for low self-esteem was the Student has a general low self-esteem to this day. The witness testified the basis for her high concern for attention span was that the Student had a difficult time focusing, has to be constantly reminded of things, and staying on tasks, completing things. The witness testified the basis for her high concern about the Student's frustration threshold was the Student's frustration at times, that she gets very angry, that outbursts had happened in class and at home, and recently at work, and the Student put her hand through a glass window this year. Discussing the areas she had marked as some concern, the witness testified, as to ability to focus on task, it was similar to attention span, that the Student had to be continually reminded of tasks and the need to be completed. The witness testified they had a home morning routine, a calendar on the refrigerator, and every morning before leaving for school, reminders, and that the witness had to follow up throughout the day to see if the Student had done what she was to do and to keep her on task every day throughout the Student's entire high school career and prior. Still looking at her referral document, the witness testified that she had written on it the Student was diagnosed with depression, was taking medication and was in therapy.<sup>148</sup>

Looking at a summary printed 11-29-17 from their primary care doctor, Dr. Chitsey, the witness testified she had provided the document to the school, that she did not recall if the Student had been prescribed medication for depression or anxiety prior to then, but the visit reason was to

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<sup>147</sup> Vol. III, p. 33, l. 13, through p. 34, l. 13

<sup>148</sup> Vol. III, p. 34, l. 19, through p. 38, l. 4

discuss the Student's medications. The witness testified that when the Student started with Youth Bridge, the doctor there, Dr. Mays, at one time was prescribing medication for the Student, but the witness did not recall if Dr. Chitsey took over prescribing medication or if it was the other way around. The witness testified the document Dr. Chitsey recommended they continue therapy with Youth Bridge.<sup>149</sup>

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<sup>149</sup> Vol. III, p. 38, l. 5, through p. 39, l. 21

Going back to the referral document, the witness testified what made her made the 504 referral, to put in writing concerns she raised previously, was that there had been continuous conversations about the bullying the Student had endured, that her mental health was declining, the self-injurious behavior, suicidal thoughts expressed by the Student, and the witness could get no help from the school district and was continually told there was nothing they could do.<sup>150</sup>

Looking at the Section 504 Parent Input Form, the witness testified she authored it, that the second page was dated December 1, 2017, and reflected her main concerns for the Student as being the Student had been diagnosed with depression and the witness was concerned some of the Student's symptoms were going to worsen due to her environment. The witness testified that some of the symptoms she was referring to were self-injurious behaviors, suicidal thoughts, nightmares, and the environment referred to the school bullying and lack of support from administration and teachers.<sup>151</sup>

Looking at the Section 504 Eligibility Determination and Summary dated January 29, 2018, the witness testified that would have been the spring semester of the Student's freshman year, and that the witness was a part of the 504 team. The witness testified the documents the team would have reviewed when determining the Student's eligibility included report cards, disciplinary records and the ACT Aspire test, and that she did not know if at that point there were any disciplinary records in the Student's file, but did not recall what she reviewed with the team. Looking at the Medical Evaluation/Diagnosis, the witness testified the team reviewed the Student's diagnosis of depression and anxiety, and testified she knew they discussed the counseling and therapy, and that she believed they reviewed the Student's diagnosis from Dr. Chitsey. The witness testified there was some discussion regarding the Student's therapy and she gave the school permission to have access to anything they wanted. The witness testified there were no Youth Bridge documents present, but she gave the school permission to view anything. The witness testified Ms. Ribando, Ms. Kolb and Ms. Politte, the Student's English, science and art teachers, respectively, were present.<sup>152</sup> The witness testified she was sure they discussed bullying at the January 29, 2018 meeting and the situations the Student had endured. The witness testified she was concerned how that would affect the Student's education, that she thought it was obvious through test scores that the Student was performing perfectly fine until late middle school, when all of this became intense.<sup>153</sup>

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<sup>150</sup> Vol. III, p. 39, l. 22, through p. 40, l. 7

<sup>151</sup> Vol. III, p. 41, l. 4, through p. 42, l. 8

<sup>152</sup> Vol. III, p. 42, l. 9, through p. 45, l. 5

<sup>153</sup> Vol. III, p. 46, l. 15-22

Looking at the accommodations the 504 team instituted for the Student, the witness testified the document read there would be a pass or colored card for the Student to use to leave the room to go to a safe person or place such as the library, and teacher awareness of the Student being absent due to doctor appointments. The witness read under the Recommendation and Placement Options, that the Student would be placed on a 504 and reviewed in three months. The witness testified that at that point she wanted to make sure the Student felt safe and was getting help, that she did not have much knowledge of really what a 504 provided or what she could ask for, and she was hoping this would help.<sup>154</sup>

When asked if there was a three-month review of the 504 plan, the witness testified she did not recall if it occurred within three months, and said there were a couple of meetings that she initiated, but agreed Ms. Richardson had some health issues and was out on medical leave. Looking at a notice dated July 30, 2018, for a Section 504 Plan Review, the witness testified she did not recall any meetings between January 2018 and July, but stated she had asked for a meeting before the next school year, so that was why this one was scheduled, that after she asked Ms. Richardson, this one was scheduled and then the witness received this notice to parents.<sup>155</sup>

When asked what discussions she had with Ms. Richardson or teachers before the end of that school year as to if the accommodations for the Student seemed to be working, the witness testified that she was sure she probably did, but she was working in the school and many conversations would happen at the lunch table or in passing and were informal. The witness testified she was concerned, that she did not think the Student felt safe or felt she was in an environment to learn at the end of her freshman year. The witness testified that initially the Student received letters about absences, but the witness provided documentation the Student had been in absences, and the witness spoke face to face with Mr. Ditmanson to remind him the Student was on a 504 and her absences from campus for therapy would not be counted, so that was taken care of.<sup>156</sup> Looking at an assessment done for Medicaid, the witness testified they were required to have an evaluation done due to the Student receiving therapy, and it had to be done by Youth Bridge.<sup>157</sup>

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<sup>154</sup> Vol. III, p. 46, l. 23, through p.48, l. 1

<sup>155</sup> Vol. III, p. 48, l. 2, through p. 49, l. 10

<sup>156</sup> Vol. III, p. 49, l. 11, through p. 52, l. 6

<sup>157</sup> Vol. III, p. 52, l. 13-25

Looking at Cassandra Elledge's Treatment Plan for the Student dated October 20, 2018, the witness testified that would have been in the fall of the Student's tenth grade year, but did not know why there would be an intake the Student's sophomore year where she had been seeing Kelly Manes at the school her freshman year. The witness testified she was having her own mental health issues going on then, and while she did not remember timelines, she knew she voiced concerns and wanted the Student to receive mental health. The witness testified she was not sure if that was when her aunt was moving into the position and Kelly Manes had started an intake for the witness, and testified that she signed the Treatment Plan and it had a diagnosis. The witness testified that Cassandra signed the document 10-20-18, and the Student and the witness signed it.<sup>158</sup>

Looking at Vanessa Allen's psychiatric evaluation dated November 20, 2018, the witness testified the first time she remembered seeing it is when she asked for the record this year. Looking at the "History of Present Illness" section, the witness read where it said the Student reported feeling anger about every other day and that it was triggered by others, the witness it was the bullying at school and anger from the lack of support. The witness testified that the bullying was not only Noah Jeffries, but girls who used to be the Student's friends, that Noah recruited others so he was no longer in trouble. The witness testified some of those other students recruited were Hayden Murphy, at one point most of the Student's class, during the "Free Noah" campaign, Lily Norman, Kelsey Rogers, Rachel. The witness testified Lily Norman was the Student's childhood best friend. The witness testified that there was a point when Noah was finally disciplined, and these students would walk through the halls chanting "Free Noah," that it was a social media campaign they created, that "#Free Noah" was written everywhere, and that at one point Hayden Murphy sent the Student a message to the effect that if Noah was in any kind of trouble or had to move schools, she would pay. The witness testified she took that to mean the Student's physical safety was in danger. The witness testified that one morning Kelsey Rogers was in the Student's face screaming that the Student needed to stop all of that, that everything was the Student's fault, and then the Student showed up in tears in the witness' classroom. The witness testified she then called the Sheriff's Department because she was done dealing with the school, that Officer XXXXX came and the witness lost control with Mr. Ditmanson, going across the table. The witness testified she was very upset that day, that she had watched the Student for years go through this, and had heard her say that she would rather end her life than spend any more time on this campus. The witness testified that the Student was experiencing anxiety being triggered by school and individuals from the school around that time, Noah Jeffries, Hayden Murphy, Lily Norman, Kelsey Rogers, Faith Schultz. The witness testified other symptoms of anxiety and depression were the Student sXXXXXps a lot during he day and many times at night has nightmares, and then about a month ago the witness had to contact the school to let them know the Student would be late because she had a rough night, that she had been up multiple times having panic attacks in the middle of the

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<sup>158</sup> 11-14-18. Vol. III, p. 53, l. 11, through p. 55, l. 17

night.<sup>159</sup>

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<sup>159</sup> Vol. III, p. 55, l. 18, through p. 60, l. 25

Looking at the Individualized Health Care Plan created by neurologists at Arkansas Children's Hospital, for the school year 2019-2020, which would have been the Student's junior year, and then the Section 504 Meeting Notes and Documents dated August 12, 2019, concerning the witness having contacted Ms. Richardson to let her know the Student recently started having seizures, the witness testified it would have been in August when she reached out. The witness testified she documented August 20, 2019 asking Ms. Richardson to let teachers know what was going on, that the Student had been scheduled for an EEG and they asked she not get much sXXXXXp the night before so that the test would be effective, and so the Student would be tired at school and not to let her sXXXXXp in class.<sup>160</sup>

The witness testified they were sent to Children's Hospital, the EEG was done under the order of Dr. Chitsey at North Arkansas Regional Medical Center, and from there they were sent to Arkansas Children's Hospital. The witness testified the neurologist at Arkansas Children's Hospital assisted with the development of a seizure plan. When asked what the neurologist told the witness as to how a seizure order could affect the Student, the witness testified that following a seizure, the Student could be very tired, and where she seemed spacy or unfocused, those would last for just a few seconds, that it would require some time for her to regain focus. The witness agreed that she was concerned about the Student's ability to focus and stay on task before, and with the seizure disorder the doctor brought to her attention that was potentially going to impact the Student's focus. The witness testified she did bring the seizure disorder to the 504 team's attention, which is when she asked for extended time on testing, and that is included as an accommodation on the Student's 504 plan as of August 2019 she believed.<sup>161</sup>

Referencing the Due Process Complaint she filed in December of 2020, the witness testified the Student was evaluated for an IEP subsequent to that time, and an IEP was developed.<sup>162</sup> When asked about other things that have occurred during the Student's senior year, such as the basketball game at Deer, the witness testified she sometimes has to miss the Student's games due to having another child who attends another school and also plays basketball, so the schedules sometimes conflict, and she was scheduled to go to the other child's game that evening. The witness testified she was contacted by the Student that afternoon, who was upset about text messages from Kelsey Rogers, there were some issues with Faith Schultz, that they met in Ms. Richey's office, and the Student stated she was afraid to be in the locker room with those girls, that she was uncomfortable and did not want to go to the game without the witness. The witness testified she told Ms. Richey she was frustrated, that it was now affecting the waitress' other children, and that night they worked it out where the witness' parents would attend the Student's game. The witness testified that Kelsey Rogers had threatened the Student before with physical

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<sup>160</sup> Vol. III, p. 61, l. 4, through p. 62, l. 23

<sup>161</sup> Vol. III, p. 63, l. 1, through p. 64, l. 16

<sup>162</sup> Vol. III, p. 64, l. 17, through p. 65, l. 3



harm, and the witness believed her probably capable of that.<sup>163</sup>

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<sup>163</sup> Vol. I, p. 65, l. 4, through p. 66, l. 20

The witness testified that she went to her son's game, and after the game the Student's grandmother called the witness and told her about issues at the game that evening, that the Student had put her hand through a window, saying the girls had cornered her in the locker room and she was very upset and had to have her hand wrapped to play basketball that night. The witness testified the Student's grandmother said the Student wanted to leave, but the grandmother said no, so the Student stayed and played the game. The witness testified this has been a repeated issue with the Student, forcing her to be involved, stay involved, and she has asked multiple times this year to quit basketball, but they do not quit once they start. The witness testified that just last night at softball practice the Student was injured, she has been having some leg pain that only appears to hurt when she is at softball, and the witness saw the Student tearfully speaking to Coach Munday at a basketball game. The witness testified that she typically sits across the court from the locker room, and one evening after half time, as the girls were coming out, she saw the Student crying and visibly upset as she came out. The witness testified that after the game the Student told her she had told the coach she wanted to quit if he could not get control of Lily Norman and Kelsey Rogers to make them stop the derogatory comments, the screaming, the yelling. The witness testified the Student told her he was just looking for someone to emerge as a leader and they were just trying to encourage the team. The witness testified in her estimation that was not what the girls were saying and they were using expletives.<sup>164</sup>

The witness testified she was a part of the IEP team, that the Student was identified as a child with a disability under the IDEA which entitled her to Special Education, SLD in math, in need of support with math at various times prior to the spring of this year, and the school has had difficulty over the years providing math instructors for the Student, that one passed away suddenly in the middle of the Student's freshman or sophomore year, and there was not one on campus for the remainder of that year, that all the students were enrolled online with Virtual Arkansas, then the following year there was a teacher on campus but the Student chose not to be in that class due to the teacher's lack of effective teaching.<sup>165</sup>

The witness testified she believed the Student's mental health diagnosis and struggles affect her schooling more than her math calculations learning disability. Speaking to school avoidance, the witness testified that most mornings getting the Student to school is a struggle, that she has been tardy multiple times this and last year, that even though multiple alarms are set by the Student, as she gets older the witness is trying to get the Student to do these things on her own, that there are arguments about having breakfast. The witness testified she believes the student's anxiety or depression causes her to leave class while it is in session, that scheduling, staying on task, needing constant reminders throughout the day, going to hide in the bathroom at school multiple times a day and texting the witness, the witness needing to coach the Student through breathing, are all a part of her mental struggles affecting her schooling. The witness testified she

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<sup>164</sup> Vol. III, p. 66, l. 21, through p. 69, l. 8

<sup>165</sup> Vol. III, p. 69, l. 9, through p. 71, l. 12

tried to help counter-balance the Student's struggles and start taking on responsibilities, but it is difficult.<sup>166</sup>

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<sup>166</sup> Vol. III, p. 71, l. 16, through p. 74, l. 18

When asked if she had any new concerns now that the IEP for the Student is in place, the witness testified that she still feels that Emotional Disturbance should have been addressed in the IEP meeting, that she felt there was no consideration given to that, that she felt it was shut down immediately. When asked it has come to her attention the Student is not receiving the math services that are in the IEP, the witness testified that the Student stated she did not like going to Mr. Milligan's room, that the first day she went there, he went over some fractions, and that since that day when she goes in he hands her a packet of ACT prep and tells her to work on that, that she has no feedback, no instruction on that, so she has no idea if she has done them correctly or not.<sup>167</sup> When asked if she was informed by the school, before hearing an offhand comment in this proceeding, that the Student was not going to class, the witness testified she was not.<sup>168</sup>

When asked if she believed the Student will need mental health services to help her access a college education, the witness testified yes, and that her opinion was based first on conversations with the Student's therapist, and second on her work with children, even though the witness acknowledged she is not a mental health provider. The witness testified the Student continues to suffer from anxiety, which continues to impact her schooling to this day, she continues to suffer from depression, which continues to impact her schooling, and her anxiety affects every area of her life. The witness testified she would want to see on the Transition Plan that mental health services be provided on a going forward basis, and for the school to provide supports that would have been included on a Transition Plan. The witness testified the Student has looked at becoming a mental health therapist, the psychology field, moving in that direction, but the witness was not sure the Student's ACT score now would meet admission requirements for Arkansas Tech. The witness testified she believes the Student can attend North Arkansas College, but it would require remedial classes based on the Student's ACT score. The witness testified that she is asking the Student be provided with remedial math to allow her to have the skills she now lacks, and in addition to remedial math of transition, she is asking for life skills, how to interact with a team, teamwork skills, interacting with others, how to act in social situations, not running to the bathroom and hiding. Discussing things made available to the Student that she had not taken advantage of, the witness testified ACT prep, that she was not aware the Student had not attended it until yesterday. The witness testified that she only lives a mile from the school, that she works from home, and that she needs to be informed of what the Student is supposed to be doing so it is taken care of, but that she feels the school's communication with her was lacking as to what the Student was supposed to be doing that she was not doing.<sup>169</sup>

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<sup>167</sup> Vol. III, p. 76, l. 1, through p. 77, l. 2

<sup>168</sup> Vol. III, p. 77, l. 3-9

<sup>169</sup> Vol. III, p. 79, l. 10, through p. 83, l. 12

Looking at the Youth Bridge documents she testified she was provided 3-5-21, the witness testified they were printed and provided to her at the Youth Bridge offices, that she provided them to her counsel, then they were provided to the school district through this proceeding. The witness testified she had seen the document with her signature on it that she reviewed with Cassandra in the office, but had not seen the other documents before obtaining them March 5, 2021.<sup>170</sup>

As to earlier testimony about Cassandra seeing the Student for at least a few appointments after her August 2018 intake, the witness testified she did not receive those records. The witness testified that Debbie in the 504 meeting had asked about the Student's therapy, but testified she did not recall signing a release for therapy records after giving the 504 referral meeting team Dr. Chitsey's note. The witness testified that she knew in her experience working on the campus and with Youth Bridge, those therapists, social workers would work in the classroom at times with students, and they were provided with information, as teachers, on what was being done with students, so she did not realize there was a need for anything, that she had given them her verbal permission to obtain the therapy records.<sup>171</sup> When asked how she knew to make a 504 referral, the witness testified she had asked about a 504 and Ms. Richardson provided the witness with the form, and the witness completed it and attending the meeting.<sup>172</sup>

Looking at Cassandra's intake and discussing the Student's diagnoses, as to the diagnosis of child neglect or abandonment, the witness testified that the Student's father has been mostly absent from her life. The witness testified she would assume that diagnosis was related to issues in the family.<sup>173</sup> When asked if she disagreed with the testimony given in this case of Coach Munday, Ms. Richardson the principal, Ms. Parks, and the teacher, Ms. Popejoy, that the Student is doing well in school, the witness testified she disagreed, that she does not feel the Student has received the education she deserves, and thought that if you are ranked number 13, the top half of your class and you are required to take remedial courses in college, there is a concern. The witness testified she is concerned that the Student is being given grades just to pass her through, and that she thinks grades are subjective. When asked if she had heard Ms. Popejoy's testimony that the Student gets each of the particular pieces of the Quantitative Literacy class, the witness testified she thinks grades are subjective, and when asked what she would suggest the district could do differently if she feels grades are subjective, the witness testified teacher evaluations, but denied ever seeing any evaluations on the Student's teacher Ms. Popejoy.<sup>174</sup>

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<sup>170</sup> Vol. III, p. 84, l. 16, through p.86, l. 20

<sup>171</sup> Vol. III, p. 87, l. 9, through p. 89, l. 5

<sup>172</sup> Vol. III, p. 89, l. 11-17

<sup>173</sup> Vol. III, p. 89, l. 18, through p. 90, l. 16

<sup>174</sup> Vol. III, p. 91, l. 17, through p. 92, l. 18, through p. 93, l. 14

The witness testified the Student has a cell phone and drives her own vehicle. The witness testified the Student, while currently not working, did work at Wendy's in Harrison until she quit, driving from her home in Lead Hill and then staying at her grandparents' home in Harrison during the weekend, as the witness did not want her driving Highway 7 at night.<sup>175</sup> Concerning the basketball game incident this year, the one where the Student hit the window, the witness testified some of the girls had been at a meal together at the country club before the game, a pre-game meal, which was not school-sponsored.<sup>176</sup>

Looking at the Youth Bridge Intake Form completed February 3, 2021 for the Student, which the witness testified earlier she had not seen until she picked it up on March 5, 2021, the witness testified it was her signature at the end of the document, so she was present for the intake, but that at the end of the session she was told to sign, so she did not actually see the document like it is here when she signed.<sup>177</sup>

When asked if the 504 team or anyone else on it ever ask the witness directly to obtain medical or mental health records of the Student, the witness testified they just asked questions about the Student's therapy, if there was a Treatment Plan, and that she had told them they had permission to access that. The witness testified she did not recall ever being present with a release.<sup>178</sup>

When asked to recall her discussing teacher evaluation for Ms. Popejoy, the witness testified she would like part of that to include an evaluation of her RTI efforts, that agreed the district had been asked for RTI records but the witness had never seen those.<sup>179</sup>

The witness testified that there had been a cell phone campaign to alienate the Student even from friends in other districts, that she had been dating a young man from Harrison earlier this year, and Kelsey Rogers began texting him, telling him the Student had AIDS, STD's.<sup>180</sup>

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<sup>175</sup> Vol. III, p. 93, l. 15, through p. 94, l. 14

<sup>176</sup> Vol. III, p. 95, l. 9-25

<sup>177</sup> Vol. III, p. 97, l. 22, through p. 98, l. 18

<sup>178</sup> Vol. III, p. 98, l. 19, through p. 99, l. 2

<sup>179</sup> Vol. III, p. 99, l. 3-16

<sup>180</sup> Vol. III, p. 99, l. 17, through p. 100, l. 1

The witness testified the Student and Kelsey Rogers do not interact outside school, and the Student will say she does everything she can to keep the peace, and they are not on the softball team together.<sup>181</sup> The witness affirmed she made the 504 referral in 2018, and testified she did not make another referral for services under IDEA until this litigation began. The witness testified that as a Special Ed teacher she had been in, or sat in on IEP conferences, and she was the folder-holder for her students. The witness testified she had sat in on 504 referral conferences. The witness testified she did not recall ever placing mental health services on an IEP at Lead Hill. The witness testified that possibly she reviewed medical records for students to determine services, that the majority of their students were SLD or OHI, but OHI would involve a medical diagnosis, that most of those were ADHD or ADD students, two were autistic students, and that there would have been medical documents for the OHI students. The witness testified she did not recall a medical professional ever attending an IEP meeting.<sup>182</sup>

The witness testified that although she did not do a written referral, she continued to voice concerns about the Student's needing additional support during the last two years. The witness testified that she has had students at Lead Hill that she was the folder-holder for that were receiving mental health services, but at the time she was a Special Ed teacher there her knowledge of Special Ed was limited, that she began her career on an ALP, and she was told by Lesa Barksdale, who provided most of the witness' training, that Emotional Disturbance was a rare classification, that it is very difficult to qualify a student under that, and the witness testified she has never put mental health services on an IEP, even though some students she served on an IEP were receiving mental health services.<sup>183</sup>

The witness testified her understanding up to the time she left Lead Hill was that Emotional Disturbance was very difficult to qualify a student under, that it took a child being regularly seen by a psychiatrist, with extreme diagnosis.<sup>184</sup>

**WITNESS XXXXX XXXXX**

The Student/witness testified she is 17 years old, a senior at Lead Hill High School, and graduates in May 2021.<sup>185</sup>

The Student/witness testified Tiger Time is supposed to be intervention time sixth period of the day, which is 1:00 to 1:35. The Student/witness testified where a particular student goes was

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<sup>181</sup> Vol. III, p. 100, l. 6-13

<sup>182</sup> Vol. III, p. 100, l. 20, through p. 101, l. 24

<sup>183</sup> Vol. III, p. 102, l. 9, through p. 11

<sup>184</sup> Vol. III, p. 104, l. 17-22

<sup>185</sup> Vol. III, p. 109, l. 8-18

decided at the first of the year, that students were split up in classes, but that everyone just goes where they want to go, where their friends are. The Student/witness testified students can go to the gym. When asked where she goes most of the time, the Student/witness testified she was put in Mackle's class when she started, that at the beginning of the year the seniors were in there, and then some of them started staying in Ms. Ribando's, just to hang out in there, and then the Student/witness was put in Mr. Milligan's. The Student/witness testified that when they go to a particular teacher's classroom for Tiger Time, they do not sign in.<sup>186</sup>

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<sup>186</sup> Vol. III, p. 109, l. 19, through p. 110, l. 12



When asked about a situation where she approached Coach Munday at half-time of a game wanting to quit, the Student/witness testified that happened this year, it was a home game last semester in December, that just prior to that conversation, they were in the locker room and Kelsey and Lilly were cussing out everyone about how much they “F”ing suck, how much they hate this team, and the Student/witness told them she did not want to be talked to like that any more and that she was going to quit if they did not shut it down. The Student/witness testified you could tell she was about to cry, and that she was trying not to, and that she was very upset. The Student/witness testified she played for Coach Munday for a number of years, and even prior years she would go to him about girls in the locker room, and he would just tell her someone needed to handle it, that he did not know what to do about it. The Student/witness testified that Kelsey and Lily cussed out the basketball team every other game, that if they had a bad game, they took it out on everyone, at half-time, after, on the floor.<sup>187</sup>

Talking about the lead-up to the Deer game, the Student/witness testified everyone was made because Faith got in trouble, so Kelsey texted the Student/witness threatening her that she had better keep her mouth shut, that she was not going to speak to the Student/witness because the Student/witness went to the office and reported her for cussing in the locker room. The Student/witness testified Kelsey threatened to beat the witness up before, and the Student/witness testified she was scared to even go to that game, as she did not know what was going to happen in the locker room that night, and was scared she would be cornered by the three girls again, which had happened before. The Student/witness testified that was the time she put her hand through the window. The Student/witness testified she reported her concerns to Ms. Richey, who told the Student/witness from then on there would be someone in the locker room at games to make sure nothing happened.<sup>188</sup>

The Student/witness testified that after an administrator started being present in the locker room, there was a game where Kelsey and Lily were not in the locker room, it was Senior night, and they packed up their stuff and got dressed in the bathrooms. The Student/witness testified it was only that one night, that she thought they were told not to do that again.<sup>189</sup>

When asked if she ever felt safe at school, the Student/witness’ answer was no. The Student/witness testified she has a diagnosis of PTSD from past events at school. The Student/witness testified she did not feel emotionally safe at school, that students make fun of her on campus about her appearance, about her seizure disorder and about her anxiety.<sup>190</sup>

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<sup>187</sup> Vol. III, p. 111, l. 5, through p. 112, l. 24

<sup>188</sup> Vol. III, p. 112, l. 25, through p.113, l. 25

<sup>189</sup> Vol. III, p. 114, l. 1-11

<sup>190</sup> Vol. III, p. 114, l. 16, through p. 115, l. 9

The Student/witness testified that Faith is involved in the bullying that continues, that Faith was on the witness' softball team at the beginning of the season but is not now. The Student/witness testified Faith was kicked off because of her mouth, that there was a lot of tension between the team, there were girls yelling at her and she was yelling at girls, and then that night at the game she did not want to do what Ms. Popejoy told her to, and she mouthed off and got kicked off.<sup>191</sup> Talking about students announcing her softball game over the loud speaker, the Student/witness testified she did not hear what was said over the loud speaker, only the part where he yelled "They suck." The Student/witness testified that the next day at school everyone came up to her saying they could not believe what he said about her and did she hear it, and that at some point she learned he had said how no one likes her.<sup>192</sup> The Student/witness testified that she had been made aware of a mean page that makes fun of her, among other students, about her anxiety and seizures.<sup>193</sup>

The Student/witness testified she felt Faith, Kelsey and Lily try to alienate the people who like her, that she had not even said a couple of words to her best friend today, that she could not go near her best friend without Faith saying no, she was talking to her, that she is her best friend, and literally dragging her out the door. The Student/witness testified she was dating a guy from Harrison within the last two years, and one of those girls gave him false information, that she had an STD, that she had found that out because he had called and tried to not talk to her anymore. The Student/witness testified she was able to straighten him out. The Student/witness testified she never spoke to Debbie Richardson about any of this, but that she did tell Suzanne Paul a while ago about the nightmares she had been having. The Student/witness testified that if Suzanne Paul testified she was surprised to hear the Student/witness had experienced suicidal ideation, she would disagree, as Ms. Paul called her to her office and made her show her the cuts on her arms, asked why she did it, and after the Student/witness told her it was because of the nightmares, Ms. Paul said she did not need to be doing it and threatened to send the Student/witness off if she did it again. The Student/witness testified she thought Ms. Paul meant sent to a mental facility.<sup>194</sup>

When asked if she reports these things to adults at the high school in the last two years, the Student/witness testified yes, she did. The Student/witness testified that she has been told that these are normal high school things, that she has been told that sometimes reporting things makes it worse, and she has been told she needs to learn to handle it. The Student/witness testified no one takes her complaints seriously, then said Ms. Popejoy because Faith got kicked off the

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<sup>191</sup> Vol. III, p. 115, l. 21, through p. 116, l. 12

<sup>192</sup> Vol. III, p. 116, l. 13, through p. 117, l. 11

<sup>193</sup> Vol. III, p. 117, l. 12-17

<sup>194</sup> Vol. III, p. 117, l. 18, through p. 119, l. 15

softball team.<sup>195</sup>

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<sup>195</sup> Vol. III, p. 119, l. 16, through p. 120, l. 10

The Student/witness testified someone had called her a dumb-ass in Ms. Ribando's class recently, and the other students heard it because they laughed, and that while Ms. Ribando heard it too, she did nothing. The Student/witness testified Faith was talking to another student in Ms. Ribando's class who the Student/witness had an incident with a couple of months ago where she told him she was going to throw pop on him if he did not quit, and then Faith said "Better yet, I will just have a seizure on you." The Student/witness testified she told Ms. Ribando about that and was very upset. The Student/witness testified the period right after that, Faith was sitting in Mr. Mackle's having fake seizures. The Student/witness testified she raised the issue with Mr. Mackle after class, and he said he was sorry, that he didn't know what he meant by that, and he would not let it happen again.<sup>196</sup>

The Student/witness testified she was part of the meeting where her IEP was developed. When asked how her math disability affects her day to day schooling, the Student/witness testified she can't do any math because she can't even do basic math. The Student/witness testified she is making a good grade in Ms. Popejoy's Quantitative Literacy class and can do that kind of math, that it is more of how to open a bank account, what is a credit card, a debit card, what they are used for is what they are learning right now.<sup>197</sup>

When asked if she has mental health diagnoses, the Student/witness testified yes, and those issues, depression, anxiety, PTSD, affect her schooling day to day. When asked if she was comparing her math learning disability versus her mental health diagnoses and struggles, which she would say, if either, impacts her day-to-day, or her school day, today, more, the Student/witness testified her mental health for sure, as it affects, it is all over, sports, too. The Student/witness testified it was not being able to focus, always having to worry if someone is going to trounce on her, just always thinking what is going to happen next, who is going to do it, when, how, is she going to be able to do this, is she going to be able to get out of it, is she going to be able to make it, to make it through for all the stuff, finally getting out, going away, surviving day to day.<sup>198</sup>

When asked what she thought would help her develop the skills she has not had the opportunity to develop in high school, the Student/witness testified she just needs someone to sit down and help her, someone to teach her how to do the basics, in math and English as well. As far as the emotional part, the Student/witness testified she feels Cassandra does that, that she started seeing Cassandra again recently, that she has seen her two times recently, and she sees her weekly and would like for that to continue. The Student/witness testified she feels Cassandra is helping her learn coping skills.<sup>199</sup>

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<sup>196</sup> Vol. III, p. 120, l. 13, through p. 121, l. 21

<sup>197</sup> Vol. III, p. 121, l. 22, through p. 122, l. 19

<sup>198</sup> Vol. III, p. 123, l. 7, through p. 124, l. 3

<sup>199</sup> Vol. III, p. 124, l. 4, through p. 125, l. 4

When asked what she wanted to say, the Student/witness testified she just wants to be okay, that she wants to be able to walk through high school and not have to worry every second of the day, that she does not want to have to stress about being able to go to college because she does not even know how to subtract numbers, that it is so hard because she has been fighting for so long because she does not want to let them win.<sup>200</sup> The Student/witness testified she would also like to have some training for teachers or administrators mandated related to bullying, how to identify it and how to respond appropriately.<sup>201</sup>

### **WITNESS CASSANDRA ELLEDGE**

The witness Cassandra Elledge, referring to the Diagnosis and Treatment Plan she developed for the Student, and the first goal to develop and implement effective coping skills that allow for carrying out normal responsibilities and participating in relationships and social activities, testified that to help the Student meet that goal, the focus will be on identifying the trauma, processing that, any residual that may be left over, or new, so identifying the trauma, processing the emotions, connect to the trauma, learn how to appropriately identify emotions and process those in a health and appropriate way, and then apply that to life to be able to carry out normal responsibilities of participating in relationships and social activities. The witness testified it was a little bit with the life skills, the conflict resolution and appropriate and healthy emotional regulation. When asked how frequently she would want to see the Student to work through these processes, the witness testified she has the treatment frequency listed as one hour weekly unless there is a crisis, in which case she would do that as needed. The witness testified that she would also like to see the Student meet with someone akin to the Katie Phillips role, which is not something the witness provides, but that she could give referrals and coordinate with them, hopefully, and that individual could work more perhaps on implementing what the Student worked through in session, as an added support to aid the Student, the focus of that person being more real world application or implementation of the strategies the Student learned from the witness. The witness testified that with trauma brain, you can learn things, but you forget them or cannot focus so you do not learn them, and once the trauma is worked through and the trauma brain is repaired, is in a better place, then the Student may need to re-learn some of those skills.<sup>202</sup>

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<sup>200</sup> Vol. III, p. 125, l. 5-15

<sup>201</sup> Vol. III, p. 125, l. 16, through p. 126, l. 3

<sup>202</sup> Vol. III, p. 129, l. 11, through p. 134, l. 3

When asked what exactly a caseworker type person would do for the Student, would it be a phone call, a meeting, do they provide a location, the witness testified that she did not know that she had that information, as she has not reached out to the lady she is aware of in town that she thinks would be a good fit, but the witness' suggestion would be that it be weekly, kind of the same role Katie played for the day-to-day to help the Student work on life skills. The witness testified this person would not be a counselor, nor had the witness written a care plan for like a caseworker because the witness is not in an agency, so this would be an outside individual with whom the witness would coordinate, share thoughts and what she thinks would be good to work on, but the caseworker would create the care plan. The witness testified she would collaborate if the other person is willing to do that, and the person she was thinking of probably would be willing to do that, but the witness could not say for sure since she had not spoken to the individual. The witness testified she was not sure the scope of what the individual does, but what the witness suggested would be to meet with the Student and determine her needs from where she is, not functional development skills like checking accounts and paying bills, but to help with skills the Student might have forgotten, such as if she was taking a business class during the times of trauma when she was bullied or what have you, there might be aspects of that the Student forgot, and maybe the caseworker could help with that, but the witness said she did not know. The witness testified she had diagnosed the Student with PTSD, and that is when you have trauma, it affects the brain, it affects the memory, amygdala, the hypothalamus, and the frontal lobe, and that affects a lot, it affects the memory of it, you can have memory loss, and if the Student was focused on trauma, she may have missed that part of development, a life skill like conflict resolution or such.<sup>203</sup>

Discussing the 2018 Intake Form she did on the Student, the witness testified she had met in weekly sessions with the Student while the witness was at Youth Bridge, and that when the Student started back with the witness in her private practice a few weeks ago, the intake was a new one, but it was not as extensive as the one at Youth Bridge, as the Student had Medicaid insurance at Youth Bridge but she does not have that, those things are not necessarily required, so she does a different version of an intake. When asked if intake is different than the Diagnosis and Treatment Plan, the witness testified yes. The witness testified that the intake she did at Youth Bridge for the Student, that is not necessarily what today's intake or plan for the Student would look like, because the Student is not the same person she was then, that the witness is not the same person, the Student has different insurance, so different things are needed or not needed.<sup>204</sup>

The witness testified that when she was at Youth Bridge, for the role that Katie Phillips filled, the witness would have been involved in the preparation of the Caseworker Treatment Plan. The witness testified she and Katie spoke frequently, at least every other week, about the Student's situation and progress. The witness testified that with the Student as she is today, if she were

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<sup>203</sup> Vol. III, p. 134, l. 21, through p. 140, l. 9

<sup>204</sup> Vol. III, p. 140, l. 15, through p. 142, l. 13

back at Youth Bridge, she would want a caseworker to be an added support to help with the interpersonal developmental skills that maybe were missed or forgotten due to trauma, to help with those things. The witness testified she would definitely suggest weekly at least for a while, to get a better idea of what is needed.<sup>205</sup>

**WITNESS MARCIA HARDING**

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<sup>205</sup> Vol. III, p. 142, l. 23, through p. 145, l. 13

The witness Marcia Harding testified she is currently self-employed as an education management consultant, specializing in Special Education. The witness testified her undergrad bachelor's degree was from the University of Missouri in 1969 in speech/language pathology and audiology, with a minor in Special Education. The witness testified she graduated with a Master's degree in 1970 in speech/language pathology with a collateral field of Special Education and psychology, also from the University of Missouri. The witness testified she did post-grad work in education administration and management, and went to work immediately that fall after graduating and has worked in the field of Special Education and Speech/language pathology ever since then to the present. The witness testified she has a lifetime teaching licensure in Missouri and in Arkansas through the Department of Education, she has licensure for private practice in speech/language pathology, and has a national certification through the American Speech-Language-Hearing Association to practice in speech/language pathology. When asked if she still actively practices as a speech/language therapist, the witness testified she is in a consultant capacity, not direct service provider.<sup>206</sup>

By way of giving her work history, the witness testified she initially began work in a residential treatment facility in Columbia, Missouri, for individuals with chronic illness, terminal illness, and dependency. The witness testified she then worked in the Columbia Public School System, in two capacities, as a speech/language pathologist and a team teacher in a learning disabilities classroom with an SLD specialist. The witness testified she then worked at Mid-Missouri Mental Health Center, which is part of the University of Missouri Medical Center, where she worked as chief of speech and hearing services in the adolescent and pre-adolescent unit primarily, though she supervised services from age 2 to 21, she worked in-patient, outpatient, and day treatment for five years, also working with Columbia Public Schools as they segued children back into public school settings who had been in their residential program, and she worked with psychiatrists and psychologists as a co-therapist in some instances. The witness testified they were also a training program for medical students taking their rotations in child psychiatry, as well as interns and residents in child psychiatry since they specialized in child psychiatry, that they were one of the test sites for DSM-5, the Diagnostic and Statistical Manual used by professionals in the field of psychology and psychiatry to make diagnoses. The witness testified she was employed to be an instructor at the University of Missouri in the realm of speech/language pathology to train Masters level students in diagnostics in a mental health facility, and also taught at William Woods University in Fulton, Missouri, in their teacher training program.<sup>207</sup>

The witness testified she moved to Arkansas in 1980 and was employed by the Arkansas Department of Education in the Special Education unit and served in many capacities in the 31 years she work in that program. The witness testified she was over the compliance unit, she was over the hearing and complaint system, te semi-legal, quasi-legal system, and was also over the monitoring unit, the program development unit. The witness testified she then served 10 years

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<sup>206</sup> Vol. III, p. 149, l. 21, through p. 151, l. 25

<sup>207</sup> Vol. III, p. 152, l. 1, through p. 153, l. 16



as Assistant Director to the Director of Special Education, and when she retired, she was asked to assume the Director role, which she did, and served for 10 years in that capacity.<sup>208</sup>

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<sup>208</sup> Vol. III, p. 153, l. 10, through p. 154, l. 6

The witness testified that when she retired, she went into private practice as a consultant and has served many schools in the area. The witness testified she was also under contract through Auburn University to provide services to what was then a federally-funded resource center, the Southeast Arkansas Regional Resource Center, serving the southern states, as well as the Virgin Islands and Puerto Rico, and provided training and wrote regulations for the Virgin Islands that were needed to be done when they were under a compliance review by the federal government.<sup>209</sup>

The witness testified that also while with the Department of Education in Arkansas, through a grant given to UALR by the Walton Foundation, she authored a chapter on Special Education and the history of Special Education in Arkansas for a book on the legal foundations to be used in school district administrator training throughout the state. The witness testified she also served as president and chair on the board of the National Association of State Directors of Special Education and was on that board for nearly ten years and served as president elect, president and past president of that organization during the last re-authorization of IDEA so had the opportunity to give input into that process.<sup>210</sup>

When asked how she came to be involved in this matter involving the Student and Lead Hill, the witness testified she was contacted around December 18<sup>th</sup> to assist the district in looking at the case and the needs of the Student, and provide general input into ensuring that the processes they followed were compliant with the IDEA requirements and state rules. The witness testified she is paid for her services by the school district, who contracts with the witness for these services. When asked how many schools she has contracted with in a similar situation to this in the last five years, the witness testified probably in excess of 40, which includes complaints, state complaints, other than Due Process hearings, as well as Due Process hearings. When asked if she had ever been retained by a school to consult on a Due Process case, and after getting involved, she said they messed up and let's fix this, that there are times in her judgment when she feels it is in everyone's best interest to try and settle a matter, particularly if the witness perceives the district has vulnerabilities. The witness testified that Lead Hill's counsel has been in cases where the witness was retained as a consultant in which she told counsel they have issues and the matter needs to be resolved or somehow handled.<sup>211</sup>

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<sup>209</sup> Vol. III, p. 154, l. 7-19

<sup>210</sup> Vol. III, p. 154, l. 20, through p. 155, l. 13

<sup>211</sup> Vol. III, p. 155, l. 14, through p. 157, l. 14

The witness testified she was not a decision-maker on the IEP team for the Student, but the witness did participate in the Student's IEP development when they met for that purpose and she did participate in the process and was a party to the development of the IEP. The witness testified she thought the first actual conference she was involved in was the EPC, the evaluation programming conference, to determine eligibility. When asked to explain how the referral progressed to the EPC, the witness testified that in the process of determining eligibility, you conduct a variety of activities, and the first of those is the referral conference, that a referral is made, then you must hold the conference within 21 calendar days to look at any existing information, including input from the parent and any parent representative to see if there is data to suggest there could be a disability which might result in the need for Special Education, that there are a variety of data points to access in order to have a good discussion and not just by default make a decision to evaluate. The witness testified you look at the data, both usually inside the district, but it also can be brought from an outside source, to attempt to determine if you go on to evaluation. The witness testified that in this case, since she did not participate, presumably it was determined it was appropriate to evaluate, and she also testified the parent had made a specific request to evaluate if the witness was not mistaken. The witness testified that so they determined that then in order to go forward, a comprehensive evaluation has to be done that allows you to look at the various areas of suspected disability, that you narrow the areas in which you are going to evaluate based on what is suspected, that if you do not suspect certain things, you would not look for those things. The witness testified that in this case, she believed they were looking at the possibilities of a Specific Learning Disability, possible Emotional Disturbance, or Other Health Impaired as potential primary disabilities that could result in the need for Special Education services. The witness testified the evaluation she reviewed that was made available following the assessment did allow for those considerations for the most part, and that is what you do. The witness testified that then you bring that information to the committee from the evaluator, along with additional input that may be available from other sources, and the committee as a whole reviews all of that data and there is discussion, and then a determination is made as to whether or not the child is eligible. The witness testified that part of what she was there to do was to be sure people understood how one becomes eligible, as it is not the fact only that you have a clinical condition that meets one of the categories, that the IDEA and state rule, which reflects IDEA's regulations, lists the categories one could consider, and you have to have that disability category, one or more, and you have to fulfill those requirements and demonstrate you have one or more of those conditions, but that alone does not make you eligible, that it must result in an adverse effect on educational performance that results in a corresponding need for Special Education and related services. The witness testified it is really a two-prong test, that if there is no clinical condition, nothing follows, but if there is a clinical condition and there is a direct correlation and relationship between the need for Special Education and the disability, and you look for that relationship that results in the need for Special Education services and possibly related services. The witness testified you cannot be eligible to receive a related service in the absence of needing Special Education. The witness testified it is very clear in the definition of Special Education, and specially designed instruction, you need to meet the needs of the student, and that is defined as adapting the content and the methodology, those types of things, as specially designed instruction, but that a related service, by definition, is required, and that is the

word used, required in order to assist the child in benefitting from the Special Education. The witness testified that there is interdependency there, and it suggests that in the absence of that related service, the child is not going to benefit to any great degree from the Special Education that is provided.<sup>212</sup>

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<sup>212</sup> Vol. III, p. 157, l. 15, through p. 162, l. 11

The witness testified that in this case, using the evaluation data to try and determine if, in fact, the Student met one of the categories of disability, the multi-disciplinary team determination was that the category the Student fit, given the data, the primary disabling condition was a Specific Learning Disability in the area of mathematics. The witness testified that was supported through Regression Analysis that is methodology used by the Lead Hill District to determine whether or not a student exhibits a Specific Learning Disability, and the Student's was very specific, that it is not in all areas of mathematics, but was in numerical operations, and in running Regression Analysis it demonstrated the Student had a severe discrepancy within that area. The witness testified that qualified the Student as a student with a Specific Learning Disability in the area of mathematics in numerical operations that was eligible to receive Special Education instruction.<sup>213</sup>

The witness testified that it was also demonstrated, through the assessment process and using all available information, that the Student also had some emotional and behavioral needs, that this was also made known to them through their own assessment using the BASC 3. The witness testified the BASC 3 with interview processes of both the parent and the teacher was pretty consistent across the findings and it was in the area of emotional regulation and emotional control, and that those are related to executive function. The witness testified that much of the testimony she heard from Ms. Elledge is consistent with that with regard to frontal lobe processing of executive function, that's where emotional regulation occurs. The witness testified that their own findings which they used in their process were consistent with that is another area where the Student has needs, so in developing an IEP, that was addressed through a related service of mental health services to be provided one time a week for 60 minutes, which is consistent with what she was hearing. The witness testified they had developed Special Education instruction on the Student's IEP for the area of mathematics, numerical, operations, and that was set up to be delivered through Resource room instruction, specific to those needs, and they also addressed the behavioral mental health therapy as a related service, and there were also accommodations utilized for the Student.<sup>214</sup>

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<sup>213</sup> Vol. III, p. 162, l. 12, through p. 163, l. 5

<sup>214</sup> Vol. III, p. 163, l. 6, through p. 164, l. 12

When asked if the IEP team, during the EPC, knew of some emotional needs of the Student, why didn't they identify her as needing special services under the Emotional Disturbance category, the witness testified there were two reasons. The witness testified the data that was brought forward at that time and made available was not everything that we have considered in this hearing, so she believed that needs to be further reviewed. The witness testified that, however, at the same time there has to be a current diagnosis that they could consider from a psychologist or psychiatrist, that is part of the required evaluation process, and at that time the last time the Student had any contact was in the 2018-2019 time period, so it was not considered to be current.

The witness testified that secondly, the issue of the mathematics, which showed up as the primary area of concern, did not appear to have a direct correlation to the emotional issue for two reasons, that they found that in the Student's overall performance through the years in math had been not as harmed, did not demonstrate the adverse effect due to anything they could ascertain was an emotionally-based issue. The witness testified that if there is evidence in the record or through documents provided that a student has an emotional deficit or a mental health issue, anxiety, depression, you still have to determine that there was an adverse effect on the area of educational performance. The witness testified that typically, if a student has a depressive disability or any kind of phobic disability, school phobic, or anything else, you see if it has an adverse impact on their performance, it's across the board, it's not subject specific, and even within a subject so narrowly applied as in this case. The witness testified that supports the SLD argument, as when you looked at the Student's results, she is of average ability, and most of her achievement is commensurate with her measured abilities. The witness testified this is the only area that had any kind of significant difference that reached the level of severity that we would say qualifies her as SLD. The witness testified if you look at the Student's performance in school when it did not involve those particular aspects of math, then she performed well. The witness testified that it would appear differently for a student who has anxiety and depression if it were adversely affecting achievement, as it would not tend to be this narrow an application, it would tend to be seen across all subject areas to some degree, and the Student performed well in school.<sup>215</sup>

The witness testified that she reviewed all, as did the committee to a large extent, the Student's academic history, all her course credit information, all her grades, she looked at, even within a class for different projects, what the Student's performance levels were in order to try to provide some input to the district staff as to the Student's performance, that she looked at the Student's ACT, her state-required assessments, and those go back to the PARC test, the Benchmark exams, and although they have changed quite a bit, which for comparison purposes made it more difficult, what the witness was seeing was that the Student was not only passing these classes, but making adequate or above grades, and, again, it did not appear there was a true functional adverse effect in most respects across the subject areas. The witness testified one of the things she asked was can students use calculators in the area of math, and in most cases the answer was yes, including the ACT, and that the Student does demonstrate that ability. The witness testified that when you remove the calculator and you have to demonstrate the process involved, what it

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<sup>215</sup> Vol. III, p. 164, l. 13, through p. 167, l. 5

appeared the Student was having difficulty with was basic functioning of addition and subtraction when it became more complex.<sup>216</sup>

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<sup>216</sup> Vol. III, p. 167, l. 11, through p. 168, l. 24

When asked why the district had not placed the Student on an IEP sooner than this semester, when they knew she had a diagnosis of depression and was seeing a therapist as early as 2018, the witness testified that at that time, when she went back and reviewed the records from the Student's 504 placement, those particular mental health diagnoses were used at that time in placing her on a service plan for 504 and she was receiving accommodations that would allow her to have some flexibility within the school setting which appeared to be sufficient to meet the Student's needs, and if they had suspected the Student needed Special Education instruction, she was sure they would have made a referral, but there was no indication at that time. The witness testified that under 504, it is not required that you qualify for Special Education to have mental health services, but under IDEA you would have to meet one of the categories of eligibility and need Special Ed instruction before you could consider a related service such as mental health services, and mental health services are listed among the related services under psychological services, counseling services, and social work services.<sup>217</sup>

The witness testified that, between December 4, 2018 and December 4, 2020 when the Complaint was filed in this case, in her expert opinion and her review of the records and evidence, the district did not deny the Student a free and appropriate public education. The witness testified FAPE has to be at no cost to the parent, at the public's expense, and it has to provide access to a General Ed curriculum and the opportunity to benefit from that education. The witness testified that the Student's records show that the Student here had the opportunity, she availed herself of that opportunity, made good grades, accrued course credits toward her graduation, and is on track to graduate with additional course credits, more than are necessary in the Lead Hill School District to accumulate an accrue in order to graduate, and she is on track to graduate in May of this year.<sup>218</sup>

When asked what Special Education would look like in the witness' opinion or experience for someone with a Specific Learning Disability with respect to math operations, the witness testified that in the sense of numerical operations in the IEP would have a goal or goals, and if the district chose to have objectives, unless it is a child on an alternate assessment, which this Student is not, but you would have goals that specifically key in to the difficulties that were recognized and identified through the assessment process. The witness testified the IEP is to be based on the assessment data, so consequently, as in this case of this Student, then there is a goal that is established specifically designed to address the problems with numerical operations. The witness testified that if you look at the Student's IEP, there are examples of exactly how you would address this issue, and the instruction would help with progress toward meeting that annual goal. The witness testified that progress is recorded for every grading period, not less than what would typically be about four times a year, twice a semester, some report at interims, and others wait until the nine-week grading period, but you must provide progress information to the parent with regard to moving toward meeting the goal, or achieving the goal. The witness

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<sup>217</sup> Vol. III, p. 168, l. 25, through p. 171, l. 4

<sup>218</sup> Vol. III, p. 171, l. 5-23



testified that in this case, it is around the addition and subtraction, multiplication and division, and developing automaticity with the knowledge and the processes involved in those basic operations.<sup>219</sup>

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<sup>219</sup> Vol. III, p. 173, l. 25, through p. 175, l. 6

When asked how many grading periods are left before the Student graduates, the witness testified she is in the last grading period, the fourth quarter. The witness testified she knew the district began implementing the IEP as soon as it was finalized for services, but did not know how the Student has availed herself of those services, whether she has gone to those classes, that period, with regularity, as that could certainly impact how quickly she progresses. The witness testified she knew that a time was set aside in the Student's schedule specifically to work with the Resource teacher on that goal, and given that the Student is of average ability, one could expect that the Student will make progress on something that narrowly defined in a reasonably short period of time with consistent instruction, and depending upon whether she is receiving that individually or as part of a group. When asked if she would anticipate the specialized instruction designed to meet the Student's unique needs with respect to numerical operations would look like providing her with an ACT prep packet and having her complete that during the allotted time, the witness testified that the Student was in addition to this specific instruction able to participate in an ACT prep opportunity that the district made available to a number of students, and that was also to be available to the Student, but the witness did not know if the Student has been participating in that, but it was clearly made available to the Student in addition to the work being done, as Special Education is not just preparing someone to take a particular test like the ACT, it is to get at the underlying deficit. The witness testified that the underlying deficit is not the ACT, the underlying deficit here is numerical operations. The witness testified there is a portion of the ACT that relies on those skills, so it is important those skills be developed, so it could influence or impact how the Student performs on a portion of the ACT, but prep for the ACT is separate from getting this instruction in these basic skills of mathematics.<sup>220</sup>

When asked about a discussion about Emotional Disturbance that related to not having the proper diagnosis by a qualified professional in place prior to the EPC conference, the witness testified she did, and said that as she recalled, the parent's counsel advised the Student would be seen, but it was not by a licensed psychologist or psychiatrist. The witness testified that while data was present from Youth Bridge, it was old data, and what was then would not necessarily be what exists now in terms of that kind of diagnosis or need, which was why they wanted it to be current. When asked who pays for the specialized assessment or comprehensive evaluation a student might need to determine eligibility, the witness testified the district either employs or contracts with an entity that provides for the evaluation, that anything beyond a basic comprehensive is determined based on need, and they are to the district, if needed, they are responsible, or they can use insurance, depending on the nature of the evaluation, depending upon what the child qualifies for. The witness testified that if the parent wanted to have the Student evaluated further, the parent pays for it or uses insurance, and if the school wants it, the school pays or uses insurance available to them.<sup>221</sup>

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<sup>220</sup> Vol. III, p. 175, l. 7, through p. 176, l. 25

<sup>221</sup> Vol. III, p. 195, l. 10, through p. 200, l. 14

The witness agreed the Student has a Specific Learning Disability in the area of math operations, and when asked when that disability would have arisen or occurred, the witness testified she did not see those gaps in the Student's performance until it started showing up in some of her performance in the state assessment, because she was able to either compensate for it or work around it, and that is often the case with students when they are intelligent and can use other means to compensate, and calculators do the work for you, but it was exposed in the assessment, but the witness testified she could not say when the Student began to not have adequacy in her performance with those skills.<sup>222</sup>

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<sup>222</sup> Vol. III, p. 205, l. 10, through p. 206, l. 18

The witness agreed that in all likelihood automaticity development would have occurred for the Student prior to her senior year of high school, and testified that she looked at the information that was provided through the assessment process, and the report talked about another area of relative weakness for the Student is that kind of memory and automaticity.<sup>223</sup>

### **CONCLUSIONS OF LAW AND DISCUSSION**

Current case law holds that “the burden of proof absent a State Statute to the contrary in an administrative hearing challenging a denial of FAPE is properly placed upon the party seeking relief, whether that is the disabled child or the school district.”<sup>224</sup> FAPE as defined for the purposes of this part are:

- a) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment an independent living;
- b) To ensure that the rights of children with disabilities and their parents are protected;
- c) To assist States, localities, educational service agencies and Federal agencies to provide for the education of all children with disabilities; and
- d) To assess and ensure the effectiveness of efforts to educate children with disabilities.

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<sup>223</sup> Vol. III, p. 208, l. 6-21

<sup>224</sup> Schaffer v. Weast, 44 IDELR 150 (U.S.2005)

Pursuant to Part B of the IDEA, States are required to provide FAPE for all children with disabilities between the ages of three (3) and twenty one (21).<sup>225</sup> In 1982<sup>226</sup> the U.S. Supreme Court addressed the meaning of FAPE and set forth a two part analysis that must be made by Courts and Hearing Officers in determining whether or not a school district has failed to provide FAPE as required by Federal law.<sup>227</sup> Pursuant to *Rowley*, the first inquiry a Court or Hearing Officer must make is whether the State, i.e., the local educational agency or district, has complied with the procedures and regulations as set out in the IDEA. Therefore, it must determine whether the IEP developed pursuant to the IDEA procedures was reasonably calculated to enable a student to make progress appropriate in the light of the student's circumstances. Procedural violations are actionable, and an IEP should be set aside, only if (i) the procedural inadequacies compromised the pupil's right to an appropriate education, (ii) seriously hampered the parent's opportunity to participate in the formulation process, or (iii) caused a deprivation of education. Procedural violations are actionable, and an IEP should be set aside, only if (i) the procedural inadequacies compromised the pupil's right to an appropriate education, (ii) seriously hampered the parent's opportunity to participate in the formulation process, or (iii) caused a deprivation of educational benefits.<sup>228</sup>

Examining the first inquiry, that of whether the District has complied with the procedures set forth in the IDEA, this Hearing Officer hereby finds that the District did not deny FAPE to the student on account of violation of procedural issues, i.e., Child Find. As to the issue of a "violation of child find," case law is well settled that the LEA is responsible for insuring that all children, from birth to twenty-one years of age, within their school district needing special education services are identified, located and evaluated regardless of their disability.<sup>229</sup> The Respondent did not fail to identify the Student suspected of having a disability. Testimony regarding the student's academic performance was positive, and she was regularly exempt from semester tests based on above average grades.<sup>230</sup> When the Respondent became aware the Student was experiencing anxiety and depression a 504 referral was submitted and an IEP was considered. Based on the Student's academic performance an IEP was not considered necessary.<sup>231</sup>

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<sup>225</sup> 20 U.S.C. 1412(a); 34 C.F.R. 300.300A(a)

<sup>226</sup> *Hendrick Hudson Dist. Bd. Of Educ. V. Rowley*,

<sup>227</sup> 458 U.S. 176, 206-07 (1982)

<sup>228</sup> *Park Hill Sch. Dist. v. Dass*, 655 F.3d 762, 766 (8<sup>th</sup> Cir. 2011)

<sup>229</sup> *Boose v. Dist. of Columbia*, 786 F. 3d 1054,,1056

<sup>230</sup> Vol. I, 99 to 101

<sup>231</sup> *Supra*

A Section 504 plan may be used instead of an IEP to meet the needs of a Student with a disability. A Student whose disability isn't so severe to warrant "special education and related services" under the IDEA can be serviced under a Section 504 plan.<sup>232</sup> At the time the Student was placed on a Section 504 plan there was no indication the Student could possibly benefit from an IEP. The Student showed no signs of a disability until psycho-educational testing was performed in early 2021. However, at that time, an IEP was developed for the Student because testing indicated the Student could benefit from specialized services in the narrowly focused area of math computation.<sup>233</sup>

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<sup>232</sup> *Grant v. St. James Sch. Bd.*, No. 00-31428, 2001 U.S. App. LEXIS 31374, at \*4(5th Cir. Aug.23,2001)

<sup>233</sup> Parent's Exhibit 194-195

Essentially, an IEP is not required to be designed to maximize the student's potential commensurate with the opportunity provided to other children. Specifically, "the IDEA requires Public School Districts to educate 'a wide spectrum of handicapped children,' and the benefits obtained by children at different ends of the spectrum will 'differ dramatically.'"<sup>234</sup> Having analyzed the first prong of the FAPE analysis, it is unnecessary to consider whether or not the District substantively denied FAPE to the Student *i.e.*, whether the District failed to "provide an IEP that was reasonably calculated to enable the Student to make progress appropriate in the light of the students circumstances."<sup>235</sup>

Having determined that the District did provide FAPE to the student it is noted that there is no requirement in the IDEA that a child shall be provided with the specific educational placement or services that his or her parents prefer.<sup>236</sup> Additionally, nothing in the IDEA requires that a school district maximize a student's potential or provide the best possible education at the expense of the public.<sup>237</sup>

## **Order**

After due consideration of the record, review of the evidence, hearing each witness and evaluating their credibility and reviewing the evidence presented in the transcript of the Due Process Hearing and the foregoing Findings of Fact and Conclusions of Law, it is hereby found that relief sought by Petitioner is not ordered. The Student was provided FAPE instruction with sufficient support services appropriately ambitious, with challenging objectives, to enable the Student to make progress appropriate in the light of the Student's circumstances within the Lead Hill School District. There has been no demonstration of any diminished educational performance by the Student which has not been addressed adequately with direct services provided by the District through trained staff, using proper instructional/teaching methods. Pursuant to *Endrew*<sup>238</sup> a district's obligations under the IDEA are satisfied when a child receives FAPE, *i.e.*, personalized instruction with sufficient support services appropriately ambitious, with challenging objectives, to enable the Student to make progress appropriate in the light of the student's circumstances. This did occur for this Student. This Request for Due Process Hearing is hereby Dismissed With Prejudice.

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<sup>234</sup> C.B. by and through his parents, B.B. and C.V. v. Special School District No. 1, Minneapolis MN, , 262 F. 3<sup>rd</sup> 981 (8<sup>th</sup> Cir. 2011) (quoting *Rowley*, 458 U.S. 176, at 202 (1982))

<sup>235</sup> *Endrew F. V. Douglas County School District Re-1*, 137 S. Ct. at 1000

<sup>236</sup> *Rowley*, 458 U.S. 176, at 203 (1982)

<sup>237</sup> *T. F. v. Special School District St. Louis Co.*, 449F 3<sup>rd</sup> 816, 821(8<sup>th</sup> Cir. 2006)

<sup>238</sup> *Supra*

**FINALITY OF ORDER AND RIGHT TO APPEAL:**

The decision of this Hearing Officer is final and shall be implemented unless a party aggrieved by it shall file a civil action in either Federal District Court or a State Court of competent jurisdiction pursuant to the Individuals with Disabilities Education Act within ninety (90) days after the date on which the Hearing Officer's Decision is filed with the Arkansas Department of Education. Pursuant to Section 10.01.36.5, *Special Education and Related Services: Procedural Requirements and Program Standards*, Arkansas Department of Education, the Hearing Officer has no further jurisdiction over the parties to the hearing.

Michael McCauley

Michael McCauley  
Due Process Hearing Officer  
May 3, 2021