

January 6, 2015

Office of General Counsel
South Carolina Department of Education
1429 Senate Street, Room 1015
Columbia, South Carolina 29201-3799
ldahlquist@ed.sc.gov

VIA US MAIL AND ELECTRONIC MAIL

RE: Class Administrative Complaint on behalf of Three Individual Students and All Other Similarly Situated Students in the Jasper County School District

To Whom It May Concern:

Enclosed herewith please find a Class Administrative Complaint filed against Jasper County School District on behalf of three individual students and all other similarly situated students within the district. Each of these three students was, or should have been, receiving special education services during the 2014-2015 school year.

If you have any questions or concerns, please do not hesitate to contact myself or Stephen Suggs in our office.

Sincerely,



Amanda G. Adler

cc: Meredith Cooler
Executive Director of the Office of Special Services
Jasper County School District
Post Office Box 848
Ridgeland, South Carolina 29936
mcooler@jcsd.net

I. INTRODUCTION

This complaint is being filed pursuant to 20 U.S.C. §1415(a) and 34 C.F.R. §§ 300.151-153 and S.C. Code Regs. 43-243.1 (2007), by the South Carolina Appleseed Legal Justice Center on behalf of three Complainants and a class of all students similarly situated in schools operated by Jasper County. The class consists of all students of the Jasper County School District with disabilities who have behavioral challenges, and who have been, or are being, subjected to repeated disciplinary removals totaling more than ten school days (including in-school suspensions, court referrals, out-of-school suspensions, and undocumented, illegal removals from school).

Complainants contend that the Jasper County School District (JCSD) is engaged in an ongoing and systemic pattern of violating the procedural and substantive rights of the Complainants and similarly situated disabled students by failing to follow the Individuals with Disabilities Education Improvement Act of 2004 (hereinafter "IDEA"), 20 U.S.C. § 1400 et seq. JCSD fails to provide a Free and Appropriate Public Education (FAPE) as follows:

1. JCSD does not provide appropriate related services for students with disabilities with behavioral problems, including sufficient counseling services, social work services, psychological services and parent counseling and training, and assistive technology that would enable such students to benefit from their special education program;
2. JCSD does not comply with IDEA's discipline regulations, including the development and implementation with fidelity of Positive Behavior Interventions

- and Supports (PBIS), and engages in an ongoing and systemic pattern of subjecting disabled students to repeated in-school and out-of-school disciplinary removals without the benefit of manifestation determination reviews (MDRs), behavior intervention plans (BIPs), or parental notification of the removal; and
3. JCSD denies FAPE to Complainants C.W., A.G., S.H. and all other similarly situated students with disabilities by failing to provide them educational services in the Least Restrictive Environment (LRE) as required by IDEA.

The Complainants request that the South Carolina Department of Education (SCDOE) investigate JCSD's provision of special education and related services to students with emotional and learning disabilities and behavioral difficulties for violations of IDEA, and order the JCSD to institute a remedial plan designed to correct, as set forth in this Complaint, each and every violation found.

II. JASPER COUNTY SCHOOL DISTRICT

A student is more likely to drop out of school if she has been suspended or expelled. A student is also more likely to drop out if she has been retained for a grade – an almost inevitable consequence of multiple suspensions. Further, one of the strongest predictors of dropping out is a student's arrest or court appearance. According to 2011 data from the U.S. Department of Education Office of Civil Rights (OCR), the most recent available, over 80,000 students were suspended in South Carolina and over 3500 students were expelled. This set of self-reported data — some of it broken out by disability status — covers such issues as college and career readiness, discipline, seclusion/restraint, school finance and student retention. Summary analysis

released with the data confirms that minority students and students with disabilities face harsher discipline than other groups of students, and that South Carolina's discipline rates are very high in comparison with other states. This complaint details how JCSD's overuse of suspensions, expulsions, and school-based arrests particularly of students with disabilities has created a school-to-prison pipeline in this community.

According to OCR data, students with disabilities as defined under IDEA comprise 10.6 percent of the school population in Jasper County. Out of 294 disabled students in Jasper County schools, twenty-six of them, or 8.8 percent, received one or more in school suspensions during the reporting period. Fifty-five disabled students, or 18.7 percent, received a single out of school suspension. Conversely, out of approximately 2,432 non-disabled students, only 7.5 percent received one or more in school suspensions and only 7.5 percent received a single out of school suspension.

The numbers are even starker for African American students. African Americans make up 62.1 percent of the JCSD school population, but comprise 69.8 percent of the disabled population under IDEA. Black students make up 100% of the district population in the categories of intellectual disability, emotionally disturbed and autism according to OCR data. In addition to being overrepresented in the disabled population, black students are subjected to disproportionate discipline. Among students receiving in-school suspensions, 84.6 percent of disabled and 71.7 percent of non-disabled students were black. Among students receiving a single out-of-school suspension, 69.1 percent of disabled and 84.7 percent of non-disabled students were black. Among students receiving multiple out of school suspensions, 88.9 percent of disabled and 81.6

percent of non-disabled students were black. Over seventy-one percent of students expelled from JCSD schools in 2011 were African American.

A black student is over twelve times more likely to be suspended from school one or more times than a white student. During the reporting period, 33.1 percent of non-disabled black students suffered some form of suspension while only 15.5 percent of non-disabled white students suffered the same fate. Being disabled and black is no better. Thirty-eight percent of black disabled students were suspended from school but only 25% percent of white disabled students. Black students are also disproportionately subjected to arrests. Of those students referred to law enforcement in 2011, 100 percent of disabled students, and 68.0 percent of non-disabled students were black. Likewise, of students arrested on school related charges, 100 percent were African American.

JCSD has contributed to these high discipline rates by violating IDEA in a number of ways. JCSD has systemically failed to provide sufficient and appropriate levels of related services to Complainants, resulting in a lack of behavioral and academic progress, numerous discipline incidents resulting in out-of-school or in-school suspensions and a resulting loss of instruction time. Complainants, without sufficient instruction time, fall further and further behind academically which contributes to alternative or more restrictive placements. JCSD systemically fails to conduct appropriate Functional Behavioral Assessments (FBAs) or to develop and implement appropriate BIPs which create or amplify adverse educational results. JCSD has systemically failed to consider and implement, with fidelity, school-wide PBIS for Complainants and others. Where PBIS has been implemented in some form in schools in JCSD,

it has reportedly resulted in improved outcomes; however, it has not been implemented correctly and thus fails to fully achieve desired results.

JCSD systemically fails to meet and revise Complainants and similarly situated students' Individualized Education Programs (IEPs) during the course of the school year to address any lack of behavioral or academic progress. JCSD consistently and systemically denied Complainants and other similarly situated students with academic and behavior problems FAPE by failing to provide sufficient and appropriate levels of related services that address the inherent behavioral characteristics and issues of students with disabilities and which manifest as behavioral problems adversely affecting those students' educational performance. See 20 U.S.C. § 1401 (a)(26), § 1412 (a)(1), § 1414 (d); 34 C.F.R. § 300.34, § 300.101, § 300.320-328.

JCSD has systemically failed to consider PBIS for Complainants and the previously defined class of students who have behavior marked as a 'special factor' on their IEP. IDEA requires that the IEP team consider the use of PBIS and other strategies to address behavior in the case of a child whose behavior impedes the child's learning or that of others. See 34 C.F.R. § 300.324 (a)(1),(2). IDEA also requires that in conducting a review of the child's IEP, the IEP team must consider specific special factors. See 34 C.F.R. § 300.324(a)(2). Each of the Complainants has behavior checked as a Special Factor on their IEP or had significant behavioral issues that would have warranted this designation. Despite this reality, a review of the IEP records from Complainants' multiple IEP meetings reflect that there is not a single instance wherein a Complainant's IEP team considered or discussed the use of PBIS much less added any of these supports to an IEP. Although JCSD convened multiple meetings in response to

discipline infractions committed by Complainants, those same teams never once discussed implementing PBIS to address present behaviors to enable him to avoid exclusionary discipline or an alternative or more restrictive placement.

JCSD consistently and systemically failed to provide Complainants and all other similarly situated students with appropriate behavioral programming which includes both specialized instruction and sufficient and necessary related services such as social work, counseling, and school psychology services tailored to address identified behavioral issues that adversely affect education. JCSD has furnished the named Complainants and all other similarly situated students with woefully inadequate levels of social work, counseling and school psychology services, if they provided any services at all. When JCSD does provide related services, it appears to be based on a template, or on the available personnel at a particular school. When behavior issues arise and result in disciplinary referrals and/or suspensions (both in and out-of-school) for Complainants and others similarly situated, JCSD fails to add related services or increase the level of related services provided. JCSD further fails to convene IEP meetings as mandated by IDEA to address behavioral issues. Instead JCSD punishes these students with further suspensions or worse. JCSD also systematically and pervasively violates IDEA's discipline provisions for students with disabilities who have been removed from their educational placement for more than 10 school days in a school year. These provisions require JCSD staff to conduct manifestation determinations within 10 days of the change of placement to determine whether the student's behavior that has led to a recommendation of suspension is related to his or her disability or a result of the school's failure to provide sufficient services to the student; to

provide on-going educational services that enable students with disabilities to continue to participate in the general education curriculum and to progress toward meeting the goals set out in their IEPs; to have IEP teams conduct appropriate functional behavioral assessments; and to draft, review, or modify as necessary behavior intervention plans that also include positive behavioral interventions, strategies, and supports so that the behavior at issue does not recur. See 20 U.S.C. § 1415 (k) (1)(A)-(H); 34 C.F.R. § 300.121; 34 C.F.R. § 530-536.

III. COMPLAINANTS

This Complaint is being filed by the following individual students on behalf of themselves and all other similarly situated students with disabilities:

Student A: C.W., DOB 7/25/95, an 8th grade student for the 2009-2010 school year at Ridgeland Middle School (RMS); a student serving repeated placements at Jasper County Alternative Placement (JCAP) from the 8th grade to the 11th grade, the 2009-2010 school year to the 2012-2013 school year; and a student at Ridgeland Hardeeville High School (RHHS) from the 9th grade to the 12th grade, the 2010-2011 school year to the 2013-2014 school year. All schools are situated in JCSD.

C.W. is an eighteen-year-old African American male. He is currently eligible for special education services under the category of Specific Learning Disability (SLD). At the opening of the 2014-2015 school year, he was incarcerated in the Turbeville Correctional Institution, a tragic outcome that resulted in part from JCSD actions, as detailed below.

As set forth in this complaint, JCSD has violated the rights of C.W. as guaranteed by the IDEA by failing to provide him with sufficient related services to enable him to benefit from his

special education program, by failing to provide him a program of special education and related services in the least restrictive environment, and by failing to comply with the IDEA's discipline requirements.

C.W. is a lifetime resident of Jasper County. Because of a significant illness befalling his father and with no mother consistently present in his life, Ms. J.F., C.W.'s aunt, has assumed responsibility for his care and communication with the School District, and she received a written release to do so from his father in January of C.W.'s 11th grade year, 2012-2013.

Throughout C.W.'s experience with JCSD, the District has not properly served him, has not developed IEPs that meet state and federal guidelines, has not properly responded to his lack of progress in testing thereby failing to provide C.W. with instruction that properly meets his needs, has not provided the emotional and behavioral support that C.W. needed to succeed, and has not properly implemented FBAs or BIPs. All of these failures are documented either in writing or by failure to produce copies of C.W.'s completed school records upon his request for them from JCSD.

C.W. has a history of academic and behavioral difficulty in school. In the 8th grade in January of 2010, he was suspended for ten days for "receiving money from another student." A Manifestation Hearing on January 11, 2010, indicated that the team believed the behavior was not a manifestation of his disability. An Annual Review was apparently written on March 29, 2010, which was to end on March 17, 2011, although a copy of this IEP does not exist in C.W.'s records. These IEP dates are only indicated on a Special Review held later that same school year, April 26, 2010. Although there is no documentation available in any of C.W.'s school

records as to the reason, he was placed on Home-based instructional services at this time. The Special Review IEP indicated an incorrect initiation date and continued to show that C.W. was being served in the self-contained setting of the middle school with twenty-three periods of special education and seven periods of Regular Education while also indicating Home-based instruction services in section IX. There were no signatures on the copy presented by the District.

Although C.W.'s entry into high school is not documented via an IEP presented by the District, it appears that he began his high school career in the 9th grade, the 2010-2011 school year, at the Alternative School, JCAP. Although a previous Special Review indicates that an Annual Review was written on March 19, 2010, with a projected ending date of March 17, 2011, the original copy of this Annual Review IEP nor does any other IEP exists for C.W. at this time. It is unclear on what date C.W. started his high school career, but on September 20, 2010, he received three days suspension at JCAP for a fight after stealing a soda. This Manifestation Determination, indicating notice was given on the same day of the team meeting and showing no signatures, is the only indication of C.W.'s placement at this time.

It appears that a special review was held on January 31, 2011, allowing C.W. to return to his regular high school, RHHS. However, a copy of this Special Review is nonexistent and is only referenced in an Annual Review written on May 5, 2011. It appears that C.W. attended JCAP from the beginning of 9th grade until this Special Review in January of 2011. And it appears that the IEP written for him in the 8th grade on March 29, 2010, and ending on March

17, 2011, which again is referenced in an April 26, 2010, Special Review, was the guiding IEP for the majority of C.W.'s 9th grade year in spite of his changes in placement.

Another Annual Review was not held until May 5, 2011, indicating a significant lapse in services for C.W. This IEP was to serve C.W. for the remainder of his 9th grade year from May 5, 2011, until June 2, 2011. Although C.W. was a 9th grade student with a Specific Learning Disability and although his Measures of Academic Progress (MAP) scores indicated his reading and math levels to be at approximately the 2nd grade level, Section III of C.W.'s IEP indicated limited accommodations to assist him when attending General Education and no academic modifications listed although he attended a Self-Contained LD Reading and a Self-Contained LD Math class. In addition, Section V of this same IEP read that he would have 900 minutes of Direct Special education services per week, equal to 15 periods while Section IX contradictorily indicates that he would spend 25 periods of time in Special education and 5 periods in Regular Education per week.

The District also failed to properly serve C.W. as evidenced by the functional present levels for Behavior and Peer Interactions in this same IEP dated May 5, 2011. Present Levels indicated that he "refuses to participate during classroom academic activities. On the rare occasion that (sic) decides to participate, he completes about 25% of the assigned work. He habitually cuts class, sleeps in class, and is disruptive. He is extremely concerned about peer relationships and is experiencing troublesome family health issues." However, his behavioral goal called for him to perform at 100% effectiveness. With this behavioral goal set at such a

high rate of accuracy, on May 5, 2011, the District explicitly set up C.W. to fail. This would not be the last time.

On the same date, May 5, 2011, another Annual Review was written for C.W.'s 10th grade year to be initiated on August 15, 2011, and to end on June 1, 2012. Although Section III of this IEP alluded to the fact that modifications would be needed, they were not specifically written. The remainder of the IEP mirrors the previous IEP written for C.W. on the same day. Included again is the expectation that C.W. will maintain appropriate behavior 100% of the time as measured by reporting to class on time, following classroom and school rules, participating appropriately in class and completing all assignments. Because no progress reports were ever provided for C.W., it is unclear how close he came to meeting this goal. In addition, although his IEP in Section V read that he would have 900 minutes of direct Special education services per week, equal to 15 periods, Section IX again conflictingly indicates that he would spend 25 periods of time in Special education and 5 periods in Regular Education. This IEP produced by JCSD upon C.W.'s request for school records also has no signatures, no invitation notice, and no Prior Written Notice (PWN).

In all of C.W.'s records produced by the District at the request of C.W. himself, there were no Progress Reports and no PWNs. There was the presence of one Invitation Letter, one FBA and one BIP to cover the entire span of C.W.'s academic career.

C.W. began his 10th grade year, 2011 to 2012, at RHHS. Although confusing in his records, it appears that a Manifestation Determination meeting was held for C.W. on November 21, 2011, because he allegedly threatened the life of a public official. This document indicated

that he would receive five days suspension and a public hearing for his crime. This time, although the document does contain some signatures, it does not indicate whether or not the team determined if his behavior was a manifestation of his disability.

Equally confusing, apparently his Administrative Hearing was held on December 12, 2011, as evidenced by a letter from Dr. Vashti Washington, Superintendent of Schools, wherein C.W. was accused of a completely different behavior, "Disturbing Schools and Fighting." For this, C.W. was sent to the Alternative Program (JCAP) for forty-five days. Specifically, Dr. Washington's letter notes several things that would need to be accomplished including documenting placement at JCAP on C.W.'s IEP, re-evaluating his Behavior Intervention Plan (BIP) (sic) by the Office of Exceptional Children and RHHS, and continuation of services through his Youth Counselor at JCAP. In addition, Dr. Washington indicates that an evaluation referral to Mental Health for professional counseling services was to be provided for C.W., and the Hearing Officer was responsible for the referral process. No documentation exists that any of these events took place including the fact that there was no IEP nor BIP produced by the District to document C.W.'s move to JCAP. Also, Dr. Washington indicates in her letter the need for an evaluation referral to Mental Health for professional counseling services in spite of the fact that as C.W. went into this Administrative Hearing, his standing IEP had Mental Health Counseling as a related service listed in Section V.

The next available document is an Annual IEP written on May 15, 2012, eleven days later than the May 4, 2012, anticipated date of the Annual Review listed on C.W.'s previous Annual IEP. With this IEP, C.W. started his 11th grade year, 2012-2013, at RHHS on August

20, 2012. This IEP has MAP scores listed for C.W.'s present levels indicating C.W. took MAP testing on January 25, 2012. However, his Testview Report printed on January 17, 2013, indicates that the last MAP testing C.W. took as a JCSD student was in the Fall of 2011, his 10th grade year. His MAP scores reported on his IEP for January 25, 2012, were identical scores to those reported for the fall of 2011. They also indicated that in C.W.'s history of MAP testing at JCSD, spanning from the 4th grade in the fall of 2005 to the 10th grade in the fall of 2011, he had only grown by 10 points in reading rising from a Mid-Year Kindergarten Level to a Beginning 1st Grade Level. In the same time period, he gained 23 points in math moving from a Mid-Year 1st Grade Level to an Ending 2nd Grade Level. As C.W. entered his 11th grade year, his MAP scores indicated he was reading on a Beginning 1st Grade Level and performing math on an Ending 2nd Grade Level.

In spite of his present levels of performance, C.W.'s Annual IEP for his 11th grade year has an identical narrative of strengths and needs to C.W.'s past IEPs, indicates no modification to the general curriculum, minimal accommodations in the general curriculum, and does show signatures as required in Section X. In addition, there is the absence of an invitation letter, the absence of a signature of a parent, and an absence of a PWN. A BIP does exist for this same date which is the only BIP present in C.W.'s school records. However, there are no signatures on this BIP and a handwritten note indicating, "No Signature Family (sic) did (sic) show."

No progress reports are available for C.W. for this school year or any school year. However, two sets of bell schedule views are available for C.W. for this school year. One from the first semester lists all of his academic classes as being Self-Contained which would indicate

the need for modifications to the general curriculum. The second semester lists all of C.W.'s classes being in the Educable Mentally Disabled (EMD) Self-Contained Classroom which would, again, indicate the need for modifications to the general curriculum. There is no documentation of an evaluation being given to C.W. placing him in the EMD classes, although it is clear from his documented lack of progress that this may have been an appropriate placement for him had the District evaluated him and chosen the EMD setting years before.

By the time C.W. entered the 11th grade, the 2012-2013 school year, his aunt had assumed the supervision of C.W. and was attempting to intervene regarding his educational needs. She obtained written permission to do so on January 17, 2013, from C.W.'s father. It is important to note that Mental Health Counseling was a related service listed on every IEP for C.W. since his 9th grade year although no documentation exists of the progress or participation of C.W. in this counseling. Around this time, according to school records, C.W. began to receive Discipline Referrals regularly. School records indicate a Uniform Violation on September 4, 2012, and an incident of Chronic Skipping on September 12, 2012, although no Discipline Referrals exist for these incidences.

On November 14, 2012, C.W. attended an afterschool basketball game with another student. He was written up for allegedly "robbing a 9th grade student at an afterschool basketball game of \$30.00. The alleged incident took place around the gymnasium area." A copy of the Student Referral exists for this event which indicates Behavior Interventions were in place including a FBA/BIP, a Behavior Contract, and Academic Modifications. The presence of a BIP is documented. However, there is no documentation regarding a Behavior Contract, and

the IEP is void of any academic modifications. In addition, the administrator writing up the referral, Karen Parker, indicated this was a Major Behavior and skipped the choice of Theft to check the "other" box where she listed the action as Robbery. C.W. was given two days of out-of-school suspension, listed as November 26 and 27, and a pending hearing. It is at this point that C.W.'s life began to crumble as aided by his school, the local police department, a police department from another part of the county, his local court system, and participants at the School's District Office Level.

C.W. would receive a Discipline Referral two days later for failure to report to class, walking the halls with his shirt hanging out, and for not respecting authority. The same existing Behavior Interventions are checked on this referral while there is no evidence that they exist or are being used properly. C.W. would be given two days of out-of-school suspension, November 19 and 20, for this referral.

In the meantime, according to a summary by the Ridgeland Police Department, the school reported the situation to the School Resource Officer, Vicky Hanley. Officer Hanley reported C.W and his friend to the Jasper County Sheriff's Office for strong arm robbery. Lieutenant Hipp contacted the Ridgeland Police Department to ask them to handle the investigation because the victim was the son of Officer Hanley. Ridgeland Police Department separately interviewed both C.W. and the other student involved. In separate interviews, both students reported taking \$10 each from the victim and both reported that there was no physical contact. C.W. and his accomplice were 11th graders, and the victim, again the son of the School Resource Officer, was a 9th grader.

On November 20, 2012, a Manifestation meeting was held for C.W., and for the first time in his school documentation, a complete document including meeting minutes and signatures was produced. C.W.'s General Education teacher protested, but the team made the decision to move C.W. back to the Alternative School, JCAP, "so he can be placed in a more restrictive environment where he can be controlled and will work on behavior goals." Of interest is that the assistant principal, Art Williams, signed the meeting minutes but did not sign the Manifestation Determination itself.

No other school documents exist until January 15, 2013. However, C.W. was arrested for Strong Arm Robbery resulting from the incident outside of a school gym involving the son of a School Resource Officer on December 17, 2012, by the Ridgeland Police Department. The warrant states that C.W. "did take cash from the victim listed as a juvenile with intent to deprive by means of force or intimidation which placed the victim in fear for his safety and well-being. Defendant and a co-defendant did feloniously or unlawfully take and carry away cash which was the personal property of the victim, a juvenile, by the use of force, threats or intimidation." Interestingly, C.W.'s filing fee to apply for a Public Defender was \$40 -- \$30 more than he took.

An Administrative Hearing was held by JCSD on January 15, 2013. At this hearing, C.W, a 17-year-old 11th grade student, has earned only three credits toward his high school diploma. The Hearing Board's decision was that C.W. return to RHHS. It is noted that "Any level 2 or 3 infractions will result in an expulsion." In none of the JCSD information, including the Discipline Referral forms used to document the inappropriate behaviors of students is there anything indicating the level of an infraction. In the letter from Dr. Vashti Washington,

Superintendent of JCSD, she refers to C.W.'s "alleged violation of the District Code of Conduct 730: Robbery." This is indicative of the fact that the District's Code of Conduct, Infraction Levels, and overall discipline policies are unclear. How are C.W. or his family or any other similarly situated student and family to know what a Level 2 or Level 3 infraction is so they may be fully informed and counsel the student at home on his behavior?

On January 17, 2013, there are meeting minutes where the Hearing Board's recommendations are explained by Dr. Meredith Cooler, Executive Director of the Office of Special Services for JCSD. The minutes indicate that "the committee recommends an abbreviated day for C.W." It is at this point that RHHS placed C.W. into the Educable Mentally Disabled (EMD) Self-Contained classroom with Ms. Mervin. Sergeant Hanley, again the mother of the victim, is quoted as saying that "it is not a safe place to have C.W. at school." And at the bottom of these minutes, it repeats that if there is a Level 2 or Level 3 violation of the code of conduct, expulsion will be recommended. Again, JCSD is poised to work against C.W. There is no Special Review of his IEP. No additional services are put into place for C.W. No review of his FBA or BIP is conducted. No change of placement is indicated. Instead, the District left C.W. to languish with long-term, significant academic deficits which were being exacerbated by behavioral deficits until the next time he was unable to meet their standards.

It would only be two weeks before C.W. received three Discipline Referrals in two hours. February 1, 2013, he is written up for Insubordination at 8:45 am by his EMD teacher, Ms. Mervin. Ms. Mervin again writes him up for Insubordination and Major Disruption at 10:30 am, with her description of the incident reading, "Left assigned area without permission. During 2nd

block, C.W. left the gym area with another student. C.W. was reported as being seen upstairs walking around.” For all intents and purposes, it is clear that C.W. displayed insubordination, but there is nothing mentioned in the description of a Major Disruption. There is no indication that C.W. was reported at the school as a missing student. And the referral indicates the location of his behavior as being the classroom, not the gymnasium, which is contradictory. Within eighteen minutes, at 10:48, Mr. Coccia, a Regular Education Social Studies teacher, had a Discipline Referral on C.W. for Major Disruption. None of the three Student Referrals indicate Behavior Interventions, Guidance Referrals, or any interventions that should have been in place for a student like C.W.

A Manifestation Determination is held on February 5, 2013, where the behaviors subject to potential disciplinary action are listed as “Level 2 Behaviors.” C.W.’s aunt participated but refused to sign. The team made the decision to send C.W. to the Alternative School, JCAP, where he will attend all day. It is noted that if he has any problems there, he will go through the Hearing process. It is also noted that his aunt does not agree with this decision.

On February 19, 2013, a Special Review was held to place C.W. at JCAP. Interestingly, this Special Review is from an original Annual Review with an initiation date of October 25, 2012, and anticipated Annual Review date of October 23, 2013. No copy of this original Annual Review was available from the JCSD Office of Exceptional Children, so it is not known exactly when the changes were made from C.W.’s Annual Review that was held on May 15, 2012. With the absence of PWNs, it is impossible to track the timeliness of the changes in services for C.W. However, the Special Review indicates a decrease in Special education services in Section V for

C.W. from 1350 minutes per week (22.5 periods) to 450 minutes per week (7.5 periods) in spite of the fact that he is being placed in an Alternative School. His Counseling listed in Related Services is also listed as 30 minutes bi-weekly which is a significant decrease from 60 minutes per week. The location of the Counseling is listed as, "Dr. Boyles," and in the copy available for review, there is a notation in handwriting beside Dr. Boyles' name that reads, "Never." Also, the words, "Mental Health Counseling" in the Description area are stricken through with a handwritten line. Section VIII indicates that C.W. does have issues with behavior that impedes his learning or that of others, but there is no evidence of the presence of a BIP, and there is not a behavior goal included in the IEP. The box is checked that the most recent evaluations were considered. However, in the present levels of Section II, the data still reflects MAP assessment scores from January 25, 2012, that previously were shown to curiously reflect the same scores C.W. had received in the Fall of 2011. In addition, JCSD has no documentation themselves of C.W. taking the MAP test any later than the fall of 2011. In the February 19, 2013, Special Review IEP, Section IX indicates that C.W. will participate in the Special education Environment for 22.5 periods per week and the General Education Environment 7.5 hours which is contradictory to the data presented in Section V. There is no indication in this same section that C.W. will attend a separate school.

It is not clear exactly what day C.W. moved to JCAP because the February 19, 2013, Special Review IEP indicated an initiation date of October 25, 2012, but on February 26, 2013, C.W. was written up again. Major Behaviors checked on the Discipline Referral include Major Disruption and Theft, and then there are several more infractions written in handwriting. In

handwriting are: Other: Disruption of the Learning Environment, Intimidation, Willful refuse (sic) to obey teachers, Major Disruption of school, and one other infraction that is illegible. The Description of the Incident is partially illegible as well, but portions can be read. "Student made statement during the breakfast and was told he would have a three day suspension; he apologized and says he would (illegible); then while (illegible), hit student (from AM); also took money from Coke Machine." From this, Comments read, "Student is suspended five days with a Manifestation Expulsion pending." This five day suspension puts him at a total of nine days suspension for the school year.

On March 7, 2013, a Manifestation Determination meeting was held. The minutes of the meeting indicate that C.W. made an inappropriate comment to a female, used inappropriate language to staff, and disrupted the learning environment when he went into an unauthorized area. These all occurred at the Alternative School, and the team determined that these were not a manifestation of C.W.'s disability which was determined to be Specific Learning Disability. There is no mention in the Manifestation Determination of C.W. stealing money from the Coke machine.

However, in a letter from Dr. Vashti Washington, dated March 15, 2013, she indicates that there was an Administrative Hearing held the same day. Interestingly, this Administrative Hearing did not address any of the behaviors addressed in the Manifestation Determination, but instead read, "The Hearing was held to determine what action would be taken against C.W.'s alleged violation of the District Code of Conduct 730: Robbery." The letter continues to read, "During testimony, Mrs. Richardson presented the case for the Alternative School. She stated

C.W. was involved in an incident where he took funds from a vending machine on the campus of the Alternative School.” Dr. Washington goes on to indicate that that the Hearing Panel along with the Office of Special Services made the decision to expel C.W. for forty-five days effective Monday, March 19, 2013 (sic). Please note that March 19, 2013, was a Tuesday. C.W.’s aunt is asked to contact Dr. Meredith Cooler to discuss how his instructional program will be coordinated through his office.

It is disturbing that on February 26, 2013, C.W. was written up for a list of offenses, none of which included Robbery. His Manifestation Determination was held March 7, 2013, during which time there was no mention of Robbery. However, at his Administrative Hearing, the only offense considered for his expulsion was Robbery. This is further evidence that JCSD is not operating appropriately under state and federal guidelines and is denying an appropriate education according to the IDEA to C.W. In this case, it is quite obvious that C.W. was pushed into the school to prison pipeline on March 15, 2013, when he was suspended for 45 days for taking money from a Coke Machine, originally labeled as “Theft” on his disciplinary referral, then ignored at his Manifestation Determination, then increased to the level of “Robbery” at his Administrative Hearing.

On June 27, 2013, C.W. Received a Grand Jury indictment for Robbery/Strong Arm Robbery on November 14, 2012, for stealing \$30 from the son of the Student Resource Officer at RHHS. Please note that C.W. and his accomplice both indicated they took \$10 each from the victim, but the story of the victim that \$30 was stolen from him was the information that the Police Department used to indict C.W.

On August 8, 2013, C.W.'s aunt wrote a letter to Dr. Vashti Washington, Superintendent of JCSD, requesting that her nephew, C.W. be reinstated as a student in the JCSD. Days later on August 12, 2013, C.W. was sentenced for Petit Larceny from the incident that occurred at school on November 14, 2012. He received time served under the Youthful Offender Act. On the same day, he was sentenced for failure to stop for a blue light, an offense that occurred on May 12, 2013, and was sentenced to time served and 2 years' probation. The terms of his probation included Obtaining a GED, Random Drug/Alcohol testing, and handwritten by the judge, "Stay in school or GED." Also on the Acknowledgement of Sentence and Notice to Report form, it is written, "Stay in school or obtain GED."

For reasons unknown to this examiner, the Grand Jury of Jasper County indicted C.W. again on August 29, 2013. Both indictments describe the same crime, the same amount of money, the same victim, and the same date of the crime. However, the June 27, 2013, indictment is for Robbery / Common law robbery, strong arm robbery. The August 29, 2013, indictment has a different Indictment number and is for Petit Larceny. At the time, C.W. had already been sentenced for the crime of Petit Larceny on November 14, 2012, which involved stealing \$30 from student R.J., and he was on probation with no jail time.

Because there are no PWNs in any of C.W.'s records, it is unknown if C.W. started his 12th grade year on time. However, an Annual Review was held on September 10, 2013, for C.W. to start on September 11, 2013. The Narrative of Strengths and Weaknesses is the same in this document as it was in the March 18, 2010, meeting held for C.W.'s 8th grade year. This same narrative was found in C.W.'s May 5, 2011, 9th grade IEP, in C.W.'s May 5, 2012, 11th

grade year IEP, and in his February 19, 2013, Special Review during his 11th grade year. C.W.'s strengths and weaknesses made little to no changes during his high school career according to his IEPs.

Also on the September 10, 2013, Annual Review, the Present Levels of Academic Achievement list MAP Scores that are dated January 25, 2012, but that also have identical scores to C.W.'s MAP testing in the Fall of 2011. Present Levels for Transition read that "C.W. will be 17 during this IEP," although C.W. turned 18 on July 25, 2013. This identical data is found in his previous Annual Review IEP. There are no modifications listed for C.W. in Section III. Section IV goals are not measurable. In Section V, Related Services do not include Counseling although there is no justification for the discontinuation of this service in C.W.'s present levels. Section VIII indicates that Behavior is a concern for C.W. and is addressed in the IEP. However, there is only the presence of a FBA on the same date with no BIP and no goals to address behaviors. Section IX indicates that C.W. receives 3 periods of Regular Education and 3 periods of Special education, while information in Section V indicates that C.W. receives 900 minutes of Special education Services which would be a total of fifteen periods.

The Behavior Intervention Plan completed on September 10, 2013, uses sixteen month old FBA data from May 5, 2012. The BIP says that "C.W. will participate in one-on-one Counseling and or group discussions about appropriate behavior and strategies that allow him to be more successful. He will receive instruction in social/skills (sic) communication skills." None of this is reflected in his IEP. No data exists to indicate that this intervention actually occurred.

It appears that C.W. began school under the September 10, 2013, IEP on the following day, September 11, 2013. By 11:45 that morning, C.W. had another Discipline referral. In the Description of Incident area, the only information available is "Strong Armed (sic) Robbery – Code of Conduct Level 3 Code = 730 (Robbery)." There is no information as to the details of what happened, but it reads that "C.W. will be suspended for three days upon return from county jail – pending Admin. Hearing." On another copy of the same Student Referral, there is a note that the school met with his Aunt on September 11, 2013, at 2:15 pm. There are dates listed on this copy that read, "9/12, 9/13, 9/16, 9/17, 9/18, & 9/19." Also written is, "Manifestation Meeting 9/19 at 9:30 am." It is unclear as to whether C.W. was suspended for three days or for six. On the following day, an arrest warrant was issued for C.W. for "Assault / Assault & Battery by Mob, 3rd degree (Bodily injury results)." The Arrest Warrant reads, "That on or about September 11, 2013, in the county of Jasper, one C.W. did knowingly and willfully commit a (sic) Assault by Mob by attempting to take personal property off of the Victim, V.M.M. The Defendant along with two other individuals were seen punching and attacking the victim near a locker area located outside of the Hardeeville-Ridgeland High School. This incident did occur in Jasper County and violates the SC Code of Laws as amended." C.W. was released on a Personal Recognizance Bond.

On September 19, 2013, the Manifestation Determination Review Meeting was held for C.W. With the documents in this meeting we found the only invitation letter available from the JCSD Office of Special Services, and it has the first and second notification date listed as September 17, 2013. Also, only the minutes from the meeting were available and not the entire

document. From the minutes we learn that in spite of the late notice, both C.W. and his aunt attended the meeting. In these minutes, we learn that the offense C.W. was charged with was a Level 3 offense. The team determined that the behaviors were not a manifestation of C.W.'s disability. In a letter written on Thursday, September 19, 2013, from C.W.'s aunt to Dr. Vashti Washington, Superintendent of Schools, we learn that the team's decision was to expel C.W. from RHHS for the remainder of the school year. In this letter, she requests an appeal.

Also on the same date, Dr. Vashti Washington pens a letter to C.W.'s aunt. In this, we learn that the Administrative Hearing was held the same day as the Manifestation Determination. In the letter, Dr. Washington refers to a video from the school's camera system in which, Dr. Washington says, C.W. was an active participant. When asked if he had anything to say, C.W. did not respond. Dr. Washington goes on to tell C.W.'s aunt that because of his classification as a Special Service student, he will be placed on Home-Based Instruction.

Dr. Washington continues to write another letter to C.W.'s aunt on September 23, 2013, where she indicates receipt of the aunt's request for an appeal. On September 25, 2013, Dr. Washington pens another letter to the aunt where she confirms a scheduled appeal hearing on October 8, 2013. There is no documentation from JCSD that exists as to whether or not this appeal hearing was held nor is there information from the outcome. However, we can assume that C.W. was not granted entry into RHHS because by January 17, 2014, there is an affidavit from his Parole Officer that he has violated five conditions of his parole regarding his failure to stop for a blue light. On February 10, 2014, C.W. was back in court where he had additional conditions added to his probation to include, "Reenroll in New Life, attend and successfully

complete. Make every appointment with your probation agent. One positive drug test, bring back before Judge Mullen. If expelled from high school, bring back to Judge Mullen. Sentencing for plea withheld until end of school. Zero tolerance for probation from today forward.” At this time, C.W. was receiving Home-Based services from JCSD because he had been expelled. And on this day, he pled to the charge of Assault and Battery by Mob. Again, the judge had made the decision to withhold sentencing for his plea until the end of his schooling.

The very next day, February 11, 2014, C.W is back in court, and his fate is completely different than it was the day before. On his Sentencing Sheet for Assault and Battery by Mob, it was written, “Jasper/Hardeeville. Must graduate from high school. No further trouble. Complete compliance with probation.” However, all of these words are crossed out, and C.W. is sentenced to one year with the State Department of Corrections. In addition, there is a document from the same date titled, “Re-Sentencing,” and this is regarding the failure to stop for a blue light. He is resentenced to one year in prison.

Following the actions of Judge Carmen Mullen on February 10, 2014, wherein C.W.’s sentencing is withheld until the end of this schooling, JCSD employees approached Judge Mullen and explained to her that C.W. was a student with Special Needs and that he would not graduate from high school. At the time, he was 18 years old and eligible to be served by JCSD until his 21st birthday. However, with this information, the judge changed C.W.’s sentence, and C.W., a student with special needs from the JCSD, was sentenced to prison.

It is without doubt that each of C.W.'s IEPs had numerous procedural errors. However, these combined with the repetitive and egregious substantive errors denied C.W. access to a FAPE according to IDEA. To recap C.W.'s experiences with JCSD, please note the following:

- Not one of C.W.'s IEPs met federal or state compliance standards.
- He had numerous lapses in services.
- He had Counseling as a related service on most of his IEPs. However, this service was never delivered.
- His IEPs were essentially carbon copies of each other with data that was either too dated to be relevant or on which dates of data collection were forged.
- C.W. had no accommodations to the regular curriculum even though he was in a Self-Contained classroom for student with Learning Disabilities for most of his high school career.
- His goals were either repetitive of previous IEPs, unmeasurable, or set at a level that was completely unattainable according to his past performance.
- His IEPs were not indicative of the services he was truly receiving with many not clearly delineating the number of periods of Special education he was receiving.
- Many did not indicate his true placement, especially when this was outside of the regular high school (e.g. placements at JCAP, Home-based instruction Services, etc.)
- Numerous signatures were missing from documents.
- Only one invitation letter was available for review.

- All of C.W.'s IEPs said that progress would be reported every nine weeks when progress should have been reported every 4.5 weeks. However, progress was not reported whatsoever during the entirety of his high school career. Not one Progress Report exists for C.W. within the documents provided to him by the Office of Special Services.

- Many of the notices given to C.W.'s family about meetings, hearings, and requests for their input involving C.W. did not afford the family time to participate as equal team members in his education.

- C.W. was not afforded the appropriate services for his academic needs. Data shows that from the fall of 2005, 4th grade, to the fall of 2011, 10th grade, C.W. increased his reading performance from a middle kindergarten level to a beginning 1st grade level. In the same time period, he increased his math performance from a middle 1st grade level to an ending 2nd grade level. No evaluation data exists to substantiate a reason for C.W.'s slow or lack of learning. No interventions and documentation of the outcomes of these interventions is available. No modifications were considered nor was there ever any mention of the difficulty C.W. may experience in all areas attempting to fit in as a 10th grader reading on a 1st grade level. No discussion of the fact that C.W. may have needed more academic support than a Learning Disabled Self-Contained classroom was ever documented.

- C.W. was not afforded the appropriate services for his behavioral needs. In spite of repeated Discipline Referrals, Suspensions, placements at the Alternative School, placements on Home-based instruction Services, and arrests, only one FBA and one BIP are available in C.W.'s school records. No documentation of interventions and outcomes is available. No

evaluation data exists to determine whether or not C.W. had an Emotional or Behavioral Disorder and therefore required an alternative placement.

As a result of the lack of appropriate services by JCSD for C.W. and as a result of all the inappropriate and discriminatory services Jasper County School District did provide regarding C.W., he served time at the Turbeville Correctional Institution. Jasper County School District failed to properly provide him with a FAPE and determined the definition of “graduation from high school” to be the earning of a diploma. JCSD then propagated that inaccuracy to a judge who acted based on that information. Together, the Jasper County School District and the Jasper County Judicial System, with the assistance of the local law enforcement divisions and the School Resource Officer, placed an 18-year-old Special education student, who read on a 1st grade level and performed math on a 2nd grade level, into prison. Jasper County School District, in conjunction with the Jasper County Judicial System, presents us with the very definition of a school to prison pipeline in the story of their involvement in the life of C.W.

Student B: A. G., DOB 4/14/1996, a 10th grade student for the 2012-2013 school year at Beaufort Jasper ACE School (BJAS). The main feeder school to BJAS was Ridgeland Hardeeville High School (RHHS). Both schools are situated in JCSD.

A.G. is an 18 year old Hispanic male, and although eligible to receive special education services, has been displaced since May 20, 2013 as no educational services have been provided to him since this time.

As set forth in this complaint, JCSD has violated his rights as guaranteed by the IDEA for failure to provide him with a legal manifestation meeting, failure to provide him with legal

expulsion proceedings and change of placement provisions, failure to provide him with a program of special education and related services in the least restrictive environment, and for failure to comply with IDEA's disciplinary requirements.

In the fall of 2012-2013, as A.G. attended the Beaufort Jasper Ace School, he was listed as a special education student and had an active IEP. He was served as a student with an Other Health Impairment. His IEP had been developed at Ridgeland Hardeeville High school on May 20, 2013.

On September 20, 2012, BJAS alleges that a Special Review of A.G.'s IEP took place during which time an FBA was offered with the intention of creating a Behavioral Intervention Plan (BIP). A.G. had arrived at BJAS with disciplinary issues from the previous school year. However, BJAS failed to provide the parent with proper notice regarding behavioral intervention options and failed to evaluate him properly.

Powerschool reports indicate that on the dates of October 30, 2012, December 13, 2012, and December 14, 2012, A.G. was subject to disciplinary actions due to different behavioral issues. On one of these reports, Dandi Daniels, the Vice Principal of the school, wrote, "He creates an unsafe environment while on campus if he cannot be trusted to follow all school rules and expectations." Even though the expectancy that a student with a history of behavioral difficulties would follow all school rules and expectations is a lofty expectation, Ms. Daniels' comment is clearly a red flag showing the need for a FBA and BIP as required by the IDEA as behavioral intervention is required by law if the student is impeding his learning or the learning

of others. Clearly, Ms. Daniels could be expected to believe that an unsafe school environment is a condition that would impede the learning of most if not all children.

However, no Functional Behavior Assessment was completed. No Behavioral Intervention Plan was developed. No behavioral interventions of any sort were attempted with A.G. including the failure to offer counseling. However, even after Ms. Daniels deemed that A.G. was creating an unsafe environment, she allowed him to return to school the following day. The school did not check A.G.'s mental stability. And his report card at that time shows a clear decrease in grades around the same time the disciplinary chart provided by BJAS shows A.G. had an increase in disciplinary problems. This would present evidence that his behavior was impeding his own learning and likely the learning of others.

On January 29, 2013, A.G. was arrested by the School Resource Officer (SRO) following a search by this same officer in the boys' bathroom. The police report indicates he was searched by school officials. A.G. was found to have some marijuana and a small pocket knife in his possession. In addition to the illegal search, he was treated poorly by the arresting SRO who harassed and humiliated him. A.G. was handcuffed and paraded around the school for all to witness. Shortly after the arrival of the parent, the SRO repetitively said in front of the parents and other witnesses that "he knows what they do." He also repeatedly expressed his confidence in front of A.G. and his parent that A.G. would be sent to prison for six years.

On January 30, 2013, the day immediately following the incident and arrest at BJSD, an untimely and illegal manifestation meeting was held regarding A.G. Proper notice was not given to the parent. No student file was brought to the table. The meeting occurred quickly and A.G.'s

fate was determined by a vote of all team members, with the exception of the parent, that his behavior was not due to his disability even though A.G.'s disability was never correctly determined by JCSD.

The decision to change his educational placement was made on February 5, 2013, according to a letter signed by administrator and hearing officer, Curtis Dixon. The school made a call to the Department of Juvenile Justice (DJJ). Neither A.G. nor his parent was given adequate, timely notice of the date of the Administrative Hearing. And A.G. was expelled without the presence of the parent and was sent to face the juvenile justice system. The school attempted to portray A.G. to be a significant trouble maker to DJJ as they tried to be certain that A.G. was charged and convicted with as many crimes as possible. However, the District then told the DJJ officials that A.G.'s behavior before this incident did not warrant behavioral intervention. The knife that A.G. had carried was approximately one centimeter longer than one inch long. It was considered a weapon by the state and was prosecutable because of the involvement of law enforcement by the school. However, the JCSD Code of Conduct explicitly expressed that it followed the federal definition of a weapon: a knife and blade that were 1 ½ inches in length. It was clear then that the JCSD was attempting to use any means necessary to have him incarcerated. A.G.'s mother was a known advocate for her son and to remove the two from the District meant that neither the school nor the District would be bothered again by either son or mother. In addition, the school did not properly document A.G.'s change of placement in an IEP document.

Beginning February 1, 2013, the parent obtained outside intervention for A.G. as the school was not helping him. She acquired an evaluation that determined him to be diagnosed with ADHD, Anxiety, Depression Explosive Behavior Disorder, and Substance Abuse. A.G.'s psychiatrist said he was self-medicating with the use of the marijuana. The psychiatrist from DJJ diagnosed him with Oppositional Defiant Disorder as well. During his difficulties with JCSD, his mother was concentrating on advocating for him educationally, trying to help him with his conditions, get him assistance outside of the school, and trying to keep him out of jail all while holding down a full time job. This entire ordeal has been extremely stressful for the complete family.

Beginning February 5, 2013 and continuing until the middle of March, 2013, the school failed to properly provide services to A.G. during the 45-day change of placement. The mother was continuing to advocate for her son and was attempting to obtain school records to facilitate the services for her son. Rather than cooperate, the District subverted her efforts in several ways including providing incomplete records, saying the records would be available at one school for her arrive at that school and find the person holding the records, the Executive Director of the Office of Special Services, to have just departed for a different location. The school alleged that the mother caused these delays. However, the onus was on the school to properly serve A.G. It was not on the mother for her to attempt to access these services for her son.

Since January 20, 2013, A.G.'s mother has been trying to get his illegal expulsion overturned. Likewise, since August of 2013, the mother has been trying to get the school district to provide doctor prescribed medical homebound services for A.G. to no avail. Although A.G.

remains a student with a disability, he is not receiving any educational services whatsoever from JCSD. The District has yet to provide the mother with a copy of A.G.'s records. It has yet to evaluate A.G. as well. It has yet to provide her with a videotape of the expulsion hearing in spite of the fact that she has formally requested it several times.

A.G. is currently 18 years old and is eligible to be served by JCSD until his 21st birthday. It is without doubt that each of A.G.'s IEPs had numerous procedural errors. However, these combined with the repetitive and egregious substantive errors denied A.G. access to a FAPE according to IDEA. To recap A.G.'s experiences with JCSD, please note the following:

- Not one of A.G.'s IEPs fully met federal or state compliance standards and in spite of the mother formally requesting from Dr. Cooler requests for the records to be corrected.
- Due to the fact that his disability was never properly determined by the school, A.G.'s goals could not possibly have been measurable, especially because they were not geared to his true disability. JCSD classified him as a student with a specific learning disability. Only because the mother took him for an outside evaluation did she discover that he has an emotional disability to include ADHD, anxiety, depression, and substance abuse problems. According to his psychiatrist, he was self-medicating with marijuana.
- He needed a Functional Behavioral Plan and a Behavior Intervention Plan along with ongoing counseling which he never received.
- His mother attempted to get him involved in sports as this could help his discipline and concentration. However, this was not ever accomplished because of the difficulty with transportation due to the mother's work schedule. Documentation exists which indicates

that the school, via Dr. Boyles, the school psychologist, denied A.G. the access to transportation in citing special needs as the reason for his ineligibility and denial. The mother discovered that transportation was a mandated service to him only after A.G. was expelled from school.

- Furthermore, Present Levels on A.G.'s IEPs are highly discrepant. Not only was the school unsure what his current level is academically stating he was at a 10th or 11th grade level, the outside evaluation determined him to function between a 2nd to 5th grade level.
- A.G.'s goals were often repetitive of previous IEPs complete with unmeasurable goals.
- His IEPs were not indicative of the services he was truly receiving with many not clearly delineating the number of periods of Special education he was receiving.
- Numerous signatures were missing from documents.
- Most of the time, invitation letters to A.G.'s IEP meetings were not sent. When they were, they were rarely sent in a timely fashion.
- Many of the notices given to A.G.'s family about meetings, hearings, and requests for their input involving A.G. did not afford the family time to participate as equal team members in his education.
- No evaluation data exists to substantiate a reason for A.G.'s slow or lack of learning. No interventions or documentation of the outcomes of interventions is available. No modifications were considered nor was there ever any mention of the difficulty A.G. may experience in all areas attempting to fit in as a 10th grader functioning at a lower level

academically. No discussion of the fact that A.G. may have needed more academic support than was ever documented.

- All of A.G.'s IEPs said that progress would be reported every nine weeks when progress should have been reported every 4.5 weeks. Few progress reports were ever issued and those that were issued were done so on an untimely basis.

- A.G. was not afforded the appropriate services for his behavioral needs. In spite of repeated Discipline Referrals, Suspensions, and an arrest, no Functional Behavior Assessments and no Behavior Intervention Plans exist in A.G.'s school records. No documentation of interventions and outcomes is available. No evaluation data exists to determine whether or not A.G. had an Emotional or Behavioral Disorder and therefore required an alternative placement.

As a result of all the services JCSD did not provide for A.G. and as a result of all the inappropriate actions taken by the district, he now sits at home receiving no educational services although eligible because the JCSD is in violation of their federal mandate to properly provide him with a FAPE.

JCSD, with the assistance of the local law enforcement division and the School Resource Officer, have expelled an 18-year-old Special education student with no provision for any educational services whatsoever. A.G., yet another of Jasper County School District's students, has been placed in the position of having no choice other than to wait, now more than 17 months, for appropriate educational services while hoping that justice will prevail. Again, the JCSD

presents us with the very definition of the school-to-prison pipeline in the story of their involvement in the life of A.G.

Student C: S.H., DOB 8/10/1995, was a 12th grade student for the 2013-2014 school year at Ridgeland Hardeeville High School.

S.H. is an 18 year old African American male, and at the time of the incident described in this complaint, was a student receiving special education services with an active IEP. He lacked only two credits to graduate from high school with a Diploma. In addition, he was excelling in and was to graduate with a Barbering License. He is currently eligible for Special education services under the category of Specific Learning Disability (SLD).

As set forth in this complaint, JCSD has violated his rights as guaranteed by the IDEA for failure to provide him with a legal manifestation meeting, failure to provide him with legal expulsion proceedings and change of placement provisions, failure to provide him with a program of special education and related services in the least restrictive environment, and for failure to comply with IDEA's disciplinary requirements.

On January 24, 2014, S.H. was involved in an altercation at school and was given a written discipline referral alleging that he provoked a fight. His referral also states that he was charged with simple assault, disturbing schools, and gang activity. There is no detailed description of the incident including no justification for why he was charged with participating in gang activity. His discipline referral is also void of any indication of behavioral interventions that were attempted at any time, and along with the referral, he was immediately suspended for five days and arrested by the School Resource Office (SRO) who, in turn, contacted the Jasper

County Sheriff's Department (JCSD). This happens to be the same SRO involved in the case of Student A, Officer Handley. Jasper County Sheriff's Department arrived and immediately arrested S.H. charging him with Assault and Battery III.

There are no specific notes on the discipline referral regarding the actual chain of events that led to the altercation. According to S.H., the other students involved repeatedly said things in an attempt to intimidate him, and one of the other students was a known bully. One student reached into his pocket as if he had a gun. S.H. felt threatened and believed himself to be reacting out of self-defense. None of the other students were given discipline referrals or were arrested, and no records exist that provide any details of the event other than a video tape.

S.H.'s parents found out about the situation as S.H. called them himself on his mobile phone. No one from the school contacted his parents even though S.H. was preparing to be transported directly to the adult jail. Because he was unable to post bail, he was forced to spend the night in prison. The following day, he was released to his parents with a fine of \$1097.50.

On the same date, Marla Almond, the Assistant Principal of the School, penned a letter to S.H.'s parents to inform them of his charges, his dates of suspension, and to inform them that he would be referred for an Administrative Hearing, the date of which Mr. Curtis Dixon, the Hearing Officer, would inform them. And on February 4, 2014, just eleven days later, an Administrative Hearing was held regarding S.H., and a letter penned to his parents informing them of the decision of the Administrative Hearing. S.H. was expelled for the remainder of the 2013-2014 school year. S.H. nor his parents were given notice of the Hearing and therefore were not able to attend much less obtain the services of an attorney. Prior to the Administrative

Hearing, no Manifestation Meeting was held. No behavioral evaluation was conducted. The failure to properly notify the student and/or parents of his Manifestation Meeting is a gross violation of IDEA while the failure to actually hold a Manifestation Meeting was a particularly egregious violation of S.H.'s rights under FAPE and IDEA. During the Administrative Hearing, the District utilized the video of the alleged incident as evidence against S.H. In addition, the school failed to provide the parents with a copy of the video which could have been considered an educational record as it should have become a part of his disciplinary file. Although a video tape of the incident was available, the school would not provide the parents with the tape. When the parents were eventually provided a copy, the video tape had no audio. No behavioral evaluation was ever conducted. There was no meeting to conduct a change of placement after the expulsion, and it is disconcerting at best that a school would not contact parents as a student is being arrested on school grounds and transported to jail.

Following his expulsion, S.H. was provided with no educational services in spite of the fact that he was a student with an active IEP. There was no meeting to document his change of placement after the expulsion. The parents had to inform the school themselves that S.H. was a student with an active IEP. Karen Parker, the Principal of the school, attempted to explain the denials of services to S.H. later when she told the parents she was unaware that S.H. was a student with Special education services and therefore eligible for a Manifestation Hearing and continued services. The onus is on the school to know the eligibility of their students and to double check that edibility as often as necessary.

The school attempted to cover its mistake with a letter signed by Karen Parker dated February 14, 2014. Ms. Parker stated specifically that S.H. was a student with an active IEP and with Special education services. Also in the letter, it was written that, "His IEP has been reviewed and we want to afford him the opportunity to graduate and complete his program at ACE." The letter continues to read, "Again, your son has been reinstated at both schools (ACE and RHHS). If you chose to withdraw him, please come by the school. However, we hope that he will finish these few months and graduate with his class. Educationally yours, Karen Parker, Principal."

However, by this time a great deal of emotional damage had been handed to S.H. His mug shot appeared in a local newspaper stating his name and crime. On February 14, 2014, S.H. chose to participate in the Pre-Trial Intervention Program (PTI) through the court. He had spent a night in jail. He had been targeted by his school and arrested in front of his peers. And he still had a charge pending for Assault and Battery III. S.H. had emotional damage that was so great and such a mistrust of school and law enforcement officials that returning to his school was more difficult than he could bear.

On February 11, 2014, a letter was penned to S.H. and his family from Jasper / Hampton Adult Education (JAHA) inviting him to utilize their services to complete his needed credits for a Diploma with the use of A+ Software. They state in the letter that they are looking "forward to working with you (S.H.'s parents) in an effort to help him have a bright future." Although the District attempts to take credit for this offer for services, it was S.H.'s mother who worked to get him enrolled into the Adult Education program to give him some alternative for his education.

However, a student who has spent his entire career in classes with a live teacher, a student who has special needs, and a student traumatized by very recent events surrounding schooling could easily find this type of platform for learning to be difficult at best. This is currently the case with S.H. who is struggling to pass math. Requesting assistance from a teacher online rather than a live teacher as he had grown accustomed is affecting his progress.

In April of 2014, the District via the Executive Director of Special Services, attempted to contact S.H. directly to inform him of his rights as a student 18 or over and to influence him to return to regular school. It is in this letter that Dr. Cooler clearly delineates the violations the District denied to S.H. in its FAPE and IDEA violations involving his discipline, Dr. Cooler is sure to point out that S.H. is entitled to services until earning a diploma or reaching age 21, and she requests that he come in and review his IEP with the Office of Special Services at JCSD.

Finally, in October of 2014, a Manifestation Determination was held for S.H., many months following the incident. However, despite this ostensible discussion of disciplinary and special education issues, no services or interventions have been implemented to provide S.H. a FAPE as required by IDEA.

It is without doubt that each of S.H.'s IEPs had numerous procedural errors. However, these combined with the repetitive and egregious substantive errors denied S.H. access to a FAPE according to IDEA. To recap S.H.'s experiences with JCSD, please note the following:

- None of S.H.'s IEPs fully met federal or state compliance standards.

- S.H. was eligible for a Functional Behavioral Plan and a Behavior Intervention Plan along with ongoing counseling which he never received, and all of these interventions should have been minimum practice prior to expelling him from school.

- S.H.'s goals were often repetitive of previous IEPs complete with unmeasurable goals.

- His IEPs were not indicative of the services he was truly receiving with many not clearly delineating the number of periods of special education he was receiving.

- Numerous signatures were missing from documents.

- Most of the time, invitation letters to S.H.'s IEP meetings were not sent. When they were, they were rarely sent in a timely fashion.

- The notices given to S.H.'s family about meetings, hearings, and requests for their input involving S.H. did not afford the family time to participate as equal team members in his education.

- All of S.H.'s IEPs said that progress would be reported every nine weeks when progress should have been reported every 4.5 weeks. Few progress reports were ever issued and those that were issued were done so on an untimely basis.

- S.N. was not afforded the appropriate services for what appear to be his behavioral needs prior to his expulsion. Instead, the school went from an allegation of behaviors for which the only merit is a videotape with no audio sound straight to suspension, arrest, and expulsion. No Functional Behavior Assessments and no Behavior Intervention Plans exist in S.H.'s school records.

As a result of all the services JCSD did not provide for S.H. and as a result of all the inappropriate and discriminatory actions the district did take regarding S.H., his life is now significantly altered by the actions of the District. Once nearing graduation while also honing a skill, S.H. was on the cusp of a productive life that would have included employment and the likelihood of owning his own business. He is now receiving less than adequate educational services in order to attempt to earn his last two credits, and all his progress in barbering has expired now requiring him to pay out of pocket to reach the same level of progress at which he once sat because JCSD failed to properly provide him with a FAPE.

The Jasper County School District with the assistance of the local law enforcement division and the School Resource Officer, have expelled an 18-year-old special education student without the use of proper procedure as outlined in the IDEA, and initially offered him no provision for any educational services whatsoever. S.H., yet another of JCSD's students, has been placed in the position of having his future changed completely by no choice of his own but by the failure of JCSD to follow state and federal law. S.H. was finally granted a Manifestation Hearing on October 8, 2014, eight and one-half months after his rights were violated. The first notice of the hearing arrived on September 26, 2014. As of the filing of this complaint, S.H. nor his parents had received any word of the outcome of this Manifestation Hearing. He has waited for this entire amount of time for appropriate educational services while hoping that justice will prevail. He continues to attempt to access a Free Appropriate Public Education through online courses offered through the adult education program, without success. And his parents are working with the Jasper County Sheriff's Office for an expungement of his record. Again, the

Jasper County School District, in conjunction with the Jasper County Judicial System, has drastically increased the probability that another student will be pushed into the school-to-prison pipeline as a result of their involvement in the life of S.H.

IV. SYSTEMIC RELIEF REQUESTED

The student Complainants are requesting District-wide prospective relief as a remedy for violations of IDEA . See *id.* at 300.151(b)(2) (remedy for denial of appropriate services includes the “[a]ppropriate future provision of services for all children with disabilities”). The Complainants request that the SCDOE, within the statutory timeline for the investigation of State Complaints (60 days), appoint an independent team of experts to investigate and make findings regarding JCSD’s compliance with the IDEA. Should any violations of IDEA be found, the Complainants request that SCDOE issue a corrective action plan requiring JCSD to remedy promptly the systemic IDEA violations and each and every individual violation. Complainants request that the corrective plan include, at a minimum, the following:

1. Appoint a nationally-recognized expert in the education of emotionally and behaviorally disabled children and youth, with specialized expertise in positive behavioral interventions, to oversee the development and implementation of the corrective action plan.

2. Ensure that a nationally-recognized expert (either the same expert identified in #1 above, or a different expert with special expertise in positive behavioral interventions) develops and monitors the implementation of a systemic positive behavioral intervention services and modifications training program that includes, but is not limited to, strategies, objectives, and timelines for students for implementing positive behavior intervention services in a district-wide

and school-wide program; the development of effective FBAs; and the development, implementation and necessary revisions of BIPs; and the mechanics of conducting manifestation determinations. The positive behavioral intervention training program shall include all pupil appraisal staff, including school psychologists and related services personnel, teachers, paraprofessionals, disciplinarians, school administrators, and other educational service providers working at schools that serve students with disabilities and shall also include bus drivers who transport students with disabilities to such schools. The training protocol shall also include the active use of pupil appraisal staff for ongoing follow-up with staff in the above-designated schools.

3. Ensure that the expert, within 60 days of his or her appointment, conducts a review and audit of the JCSD education programs for students with disabilities who manifest behavioral issues and are subject to repeated disciplinary removals and issues a report with specific recommendations for systemically addressing these students' behavioral programming needs.

4. Ensure that the expert, in conjunction with the JCSD, develops specific school system policies that are disseminated by the Superintendent to all school building administrators including principals, vice-principals, and disciplinarians outlining and mandating strict compliance with IDEA's discipline requirements, including the requirements of manifestation determinations; provision of IEP services upon reaching the 11th cumulative day of out-of-school suspensions; development of appropriate FBAs; development of BIPs involving positive behavioral supports, strategies, and services; review and modification of BIPs after every 10 days of suspensions; elimination of illegal and undocumented "cool-off" removals and provision

of due process rights (including written notice of and justification for the removal) for parents and students upon suspension from school.

5. Ensure that the expert, in conjunction with the JCSD, creates and monitors the implementation of a reliable central administrative electronic tracking system for recording the number of disciplinary referrals and removals from school for special education students in the JCSD.

6. Ensure that the expert, in conjunction with the JCSD, develops and monitors the implementation of specific strategies and objectives for significantly reducing the number of suspensions of students with disabilities.

7. Ensure that the expert, in conjunction with the JCSD, develops and monitors the implementation of specific annual strategies and objectives for significantly reducing the number of special education students who manifest behavioral issues who are placed in self-contained classroom settings and concomitantly significantly increasing these students' access to the general education curriculum and classrooms.

8. Compel the JCSD to significantly increase the frequency and duration of the related services of social work services, counseling services, psychological services, recreation services, rehabilitation counseling and parent counseling and training, as well as other necessary related services provided to students in special education who are subject to repeated disciplinary removals or placement in alternative school settings in JCSD and also ensure that decisions involving such related services are based upon individual need and not staff availability or other reason unrelated to individual student needs;

9. Require the JCSD to disaggregate arrest data by School Resource Officers and other law enforcement personnel by disability category.

V. INDIVIDUAL RELIEF REQUESTED

The Complainants are requesting individual relief for C.W., A.G., and S.H. for the lack of a free appropriate public education they have endured. The Complainants are requesting: a.) reinstatement in the JCSD to include compensatory services for C.W., A.G., and S.H. for the missed/lost instructional time that resulted from not being provided services; b.) the addition of the appropriate related services to their IEPs to address their behavioral issues; c.) monitoring, review and any necessary staff training regarding their individual Behavior Intervention Plans by an expert identified by the SCDOE who is not employed by the JCSD; and d.) any other relief that the SCDOE finds just and proper in this situation.

Amanda Adler, Esquire and Stephen Suggs, Esquire of South
 Carolina Appleseed Legal Justice Center

 Name of person filing complaint if *not* parent

X Amanda Adler 1/6/15

 Signature of person filing complaint if *not* parent Date

1518 Washington Street

 Street address of person filing complaint if *not* parent

Columbia	SC	29202
_____	_____	_____
City	State	Zip

N/A	803-779-5951
_____	_____
Home phone	Fax

803-779-1113 ext. 108	_____
_____	_____
Work phone	Cell phone