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VIA FACSIMILE

Louisiana Department of Education
P.O. Box 94064
Baton Rouge, LA. 70804-9064
ATTN: Legal Division, Ms. Adrienne DuPont
Fax No. 255-342-1197

Re: Administrative Complaint on behalf of [REDACTED] (Individually) and

[REDACTED] and a group of [REDACTED] students with [REDACTED]
Disturbed Students in the East Baton Rouge Public School System

I.

[REDACTED]
[REDACTED]
6th Grade
[REDACTED]
[REDACTED]

Exceptionality: Emotionally Disturbed (Secondary SLD)

II.

[REDACTED]
[REDACTED]
7th Grade
[REDACTED]
[REDACTED]

Exceptionality: Emotionally Disturbed (Secondary SLD)

Dear Ms. DuPont,

The undersigned counsel are filing this Individual Complaint on behalf of [REDACTED]

Improvement Act (hereinafter "IDEA") On behalf of [redacted] and a class of similarly situated and treated individuals, undersigned counsel make the following class claims. Petitioner [redacted] was a student at [redacted] Middle School during the 2005-06 school year before being sent to the [redacted] Alternative School in February 2006. At all times relevant to this complaint and since 2004, EBR has been determined eligible for special education services

Middle School. At all times relevant to this complaint and since 1998 he has been determined eligible for special education services under IDEA.

INDIVIDUAL CLASS CLAIMS ON BEHALF OF [redacted]

- Denial of FAPE- Insufficient Related Services-
Restrictive Environment

EBR HAS FAILED TO PROVIDE SUFFICIENT RELATED SERVICES

EBR has failed to provide Petitioner Stewart with the Related Services needed to address [redacted] educational needs and to enable him to progress in the general curriculum and to make progress toward his IEP goals. Petitioner [redacted] is a child who is unable to function successfully in the Least Restrictive Environment to progress in the general curriculum and to make progress toward his IEP goals. Petitioner [redacted] currently receives 30 minutes of Counseling/Other Therapy per week as a related service. However, EBR's failure to modify the quantity of counseling services received by Petitioner failed to make any meaningful academic or behavioral progress and in light of several disciplinary referrals that led to Petitioner being expelled and assigned to Valley Park Academy in February 2006¹, reflects that the provision of related services in East Baton Rouge is cookie cutter in nature and not related to the level of individual need of Petitioner [redacted]. Services provided to Petitioner Stewart has never varied since his initial December 2004 IEP which also lists 30 minutes of Counseling/Other Therapy per week. Consequently the failure of EBR to increase the amount of Counseling/Other Therapy during the current school year can only be explained by a profound and appalling indifference to Petitioner [redacted] needs, particularly in light of his first year's admission in September 2005 [redacted] has not achieved any objectives at the time this IEP was developed" (See Petitioner's 0/16/2005 IEP) and in light of numerous ensuing disciplinary referrals that led to Petitioner [redacted] being expelled and assignment to an Alternative School by mid-year. See 20 I.S.C. 1701, 20 U.S.C. § 1714 (a)(1)(A)(i)(I-V) and must include a statement of related services and services based on peer reviewed research to the extent practicable to the extent practicable)

EBR HAS FAILED TO EDUCATE PETITIONER ██████████ IN THE LEAST RESTRICTIVE ENVIRONMENT:

EBR's placement decisions violate IDEA's mandate that, to the extent possible, disabled students be educated in the least restrictive environment. See 42 U.S.C. § 1412 (b)(1)(A); 34 C.F.R. 300.550-556; D.P.L. 1706; District A, 8/26/04.

December 2004 Initial IEP placed Petitioner in a self-contained setting with Physical Education and Art/Music being his only regular classes. EBR's decision to place Petitioner ██████████ in a self-contained setting immediately upon classifying him as Emotionally

Behaviorally Disturbed/Conduct Disorder modifications in regular education settings so that he

strategies that would have allowed Petitioner to continue accessing general education classes including the use of a Paraprofessional Aides, Social Worker/School Psychologists and/or Special Education Teachers in general education settings; modifications of the curriculum;

and individualized behavior modification support plans, peer supports/teaching

segregate Petitioner in a highly restrictive self-contained setting. Furthermore, at no point did East River Place provide any recent justification or reasoning for its determination that ██████████ was unable to function in a regular education setting for ancillary subjects such as Physical Education and Art/Music but not for other academic subjects such as reading.

Petitioner's September 2005 IEP maintained his restrictive and segregated self-contained placement and only afforded him access to general education for Physical Education and one unspecified elective. In both the 2004 and 2005 IEPs, the only justification given for not placing ██████████ in a regular or resource setting is ██████████

emotional/behavioral disorders. There is no evidence in any of his records however that EBR ever attempted to increase the amount of counseling or implement any of the

Petitioner believes that Regular General Education in EBR simply does not welcome, much less include ED students and there has been inadequate staff training regarding the types of supplemental aids, services, accommodations, supports, modifications and other teaching practices that would provide ED students with opportunities to participate and progress in the general curriculum. There has also been a woefully inadequate number of Paraprofessional Aides and/or Special Education Teachers with ED students in general education settings. Team or Co-Teaching arrangements and coordination among General Education and Special Education teachers is essentially nonexistent in EBR for ED students and this reality effectively denies ED students with opportunity to participate and progress in the general curriculum. This reflects EBR's systemic failure to provide appropriate supplemental aids and general education.

access and succeed in a less restrictive setting in at least some of his core subjects. Instead of helping to address his academic and behavioral needs, EBR's self-contained placement has severely affected his academic and behavioral functioning and thus only further harmed his educational progress. This is clearly evidenced by EBR's own admissions that Petitioner failed to achieve any of his December 2004 objectives and by EBR's repeated disciplinary referrals during the current school-year culminating in Petitioner being expelled and transferred to [REDACTED] Alternative School in February 2006.

CLASS CLAIMS ON BEHALF OF [REDACTED] AND A CLASS OF SIMILARLY SITUATED EMOTIONALLY DISTURBED STUDENTS:

- Denial of FAPE- Failure to Provide Educational Benefit
- Denial of FAPE- Failure to Comply with IDEA's Discipline Regulations:

Petitioners contend that EBR has violated their substantive and procedural rights under the IDEA and of similarly situated Emotionally Disturbed students resulting in a denial of Free Appropriate Public Education (hereinafter "FAPE"), specifically related to EBR's failure to provide Emotionally Disturbed students with services that confer meaningful educational benefit and EBR's failure to adhere to IDEA's provisions.

Specifically, EBR's systemic violations of IDEA include, but are not limited to the following:

1. EBR Has Failed to Confer Meaningful Educational Benefit

EBR has denied Petitioners and all other similarly situated ED students FAPE by providing Petitioners and these students with an education that has failed to confer meaningful educational benefit. The failure to confer meaningful educational benefit is a systemic problem across EBR.

ED students across EBR is that even though they are of average intelligence, by the time they reach junior high school, they are typically performing years behind their chronological grade level and their peers. One result is that ED students are typically placed in restrictive self-contained settings and this leads to an almost total absence of meaningful educational benefit. The high school graduation rate for disabled students in East Baton Rouge is consistently among the lowest in the state. This

is particularly true for students with emotional and behavioral disorders. This is particularly true for students with emotional and behavioral disorders. This is particularly true for students with emotional and behavioral disorders.

School Dist. v. Rowley, 458 U.S. 176, 200-201 (1982); *Cypress-Fairbanks ISD v. Michael F.*
118 F.3d 245, 253-254 (5th Cir. 1997).

Consistent with practices and policies that are widespread and reflected in ERP's
remarkably low high school diploma rate for disabled students (16.9%), EDK
55% of the students were removed from the high school diploma track when

special education when he was in the third grade. Moreover, he is currently in a self-
contained classroom where he is not taking any regular academic classes, and thus his
chances of earning and obtaining a high school diploma are essentially non-
existent. Similarly, as a sixth grader, Petitioner [REDACTED] took the fifth-grade IOWA
Test of Basic Skills and scored in the 2nd percentile rank in reading, the 8th percentile
rank in language. That is more than two standard deviations from the norm. As of

his grade level. He took the LEAP test this school year because his grade level
that LAA-2 will be an option again for next year. There is no chance that he will ever
pass LEAP or earn enough Carnegie units to graduate from high school because his
services have been so inadequate.

2 ERP Has Violated IDEA's Discipline Provisions. ERP has further
denied Petitioners and all other similarly situated ED students FAPE by its violations
of IDEA's discipline provisions involving students with disabilities who have been
removed from their regular educational placement for more than 10 school days in school
year. These provisions require ERP to conduct Manifestation Determination
Reviews within 10 days of the change of placement; to furnish 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 committees conduct appropriate functional behavioral assessments; and
to draft, review, or modify as necessary behavior intervention plans that also include

(a)(2) (d) Bulletin 1706 Subpart A § 510. At all times relevant to this administrative
ERP has failed to comply with the IDEA provisions. ERP's in-

school suspension rate for disabled students (20.7%) is significantly higher than
students (minus the state's average of 12.38%). This highly disproportionate rate
reflects that EDK's solution for addressing the behavioral and emotional needs of
students with disabilities is to send them to an in-school suspension rather than to

For offenses such as disobedience, cursing, being disrespectful and hitting. As previously noted, EBK did not receive any special education services or Counseling (Counseling/Therapy related services), did not revise his behavioral goals, did

ED classification, is evidence of the district's failure to follow the discipline regulations. After the sixth and final removal - Petitioner [redacted] expulsion from

school, an IEP was developed for EBK. The IEP was not implemented at the time of the present and was not given a chance to argue that the behavior was clearly related to

of the first 5 removals totaling 25 days, a new FBA was not conducted and a new behavior intervention plan was not put into place. Instead [redacted] was removed from [redacted] Middle School and sent to an alternative school for the remainder of the year. He was given a "remainder of the school year" suspension to an interim

day suspension from [redacted] Middle School. In addition to the numerous suspensions he received throughout the school year, his behavior clearly related to his

[redacted] has been suspended at least five times for a total of nine days

addition to these suspensions to the alternative school, Petitioner [redacted] mother has been called no less than six times³ this year to come pick him up and bring him home for a "cool down" day. No educational services are provided during these illegal removals from school. Moreover, Petitioner's other suspensions and

placement at the [redacted] discipline center resulted in the provision of weekly

academic environment, EBK deliberately eschewed compliance with IDEA's discipline procedures. EBK has not conducted any manifestation determination reviews in accordance with the law for [redacted] despite the fact that he has been

put out of school well over 10 days. This is consistent with EBR's history of refusing to address the inherent behavioral characteristics and issues associated with Emotionally Disturbed students' disability and refusing to allow such students to access the general curriculum. EBR instead has established a pattern and practice of sending ED students to alternative schools to their homes or at best to self-contained classrooms. However in none of these settings are they being provided with the tools that need to be provided to allow them to be successful. The high and significantly disproportionate in-school suspension rates the past several years reflect pervasive noncompliance with IDEA's disciplinary provisions and also raise the specter of pervasive discriminatory practices towards students with disabilities versus students without disabilities.

Individual Remedies for [REDACTED] Necessary to Settle His Individual Complaint

EBR will need to take the following action to address [REDACTED] individual complaints in order to settle this administrative complaint:

(1) Increase the frequency and duration of social work, counseling or psychological services provided to [REDACTED]

(2) [REDACTED] MCHH School with appropriate supports prior to the beginning of the 2006-2007 school year;

(3) Develop a new functional behavioral assessment and a new behavioral intervention for Petitioner [REDACTED] using a licensed school psychologist;

(4) Ensure that Petitioner [REDACTED] is moved to a regular education reading class for the 2006-2007 school year;

(5) Provide after-school one-to-one tutoring to Petitioner [REDACTED] for a period of one school year to compensate him last year's denial of FAPE.

Systemic Remedies Necessary to Settle This Class Due Process Complaint

EBR will need to take the following action to address the systemic IDEA violations delineated in Section:

(1) Develop a systemic training protocol that includes and provides for the training of [REDACTED] for all pupil appraisal staff in the school system and all teachers, paraprofessionals, disciplinarians, and administrators working at schools which have ED students. The training protocol shall also include the active use of pupil appraisal staff for ongoing follow-up with staff in the designated schools above;

(3) Compel EBR to develop specific school-wide policies that are disseminated by the Superintendent to all school building administrators including principals, vice-principals, and discipline coordinators and mandating strict compliance with IDEA's discipline

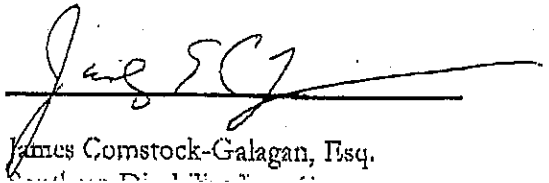
development of appropriate EBRs; development of RTDS involving
after every 10 days of suspensions;

(4) Compel EBR to develop with LDE, SDIC and SDIC as well as the nationally
reducing the number of suspensions of ED students;

(4) Compel EBR to place certified special education teachers in its self-contained classrooms, its alternatives schools and its disciplinary centers;

(5) Compel EBR to develop with LDE, SDIC and SDIC specific strategies and objectives
for implementing intensive reading remediation programs at an elementary schools
serving ED students to ensure that they are reading at or within one year of
chronological grade level by the time they move onto junior high school.

Sincerely,



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