

CIVIL COVER SHEET

17-C-0318

The JS 44 Civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by legal rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of indexing the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

17 0318

I. (a) PLAINTIFFS

Princess J. obo MGJ, and Princess J. individually

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Zachary Meinen, Montgomery Law, LLC, 1420 Locust St., suite 420, Philadelphia, PA 19103. PH: 215-650-7563

DEFENDANTS

School District of Philadelphia; Langston, Colette, Roseman, Jodi; Lynch, Lisa; Carson Valley Children's Aid, John Does 1-10.

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
20 USC Sec. 1400 et seq.; 29 USC Sec. 794 et seq.; 42 USC Sec. 1983; Title IX; 42 USC Sec. 12131

Brief description of cause:
Student with disabilities, sexual assault, discrimination

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMANDS In excess of \$150,000

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER JAN 23 2017

DATE 01/23/2017 SIGNATURE OF ATTORNEY OF RECORD

Zachary Meinen

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

\$400

MAK

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

MGJ, by and through her Parent and natural
guardian, Princess J., and
Princess J. in her individual capacity,

Plaintiffs,

v.

School District of Philadelphia
440 N. Broad Street,
Suite 313
Philadelphia, PA 19130-4015;

and

Mrs. Colette Langston
Swenson Arts and Technology High School
2750 Red Lion Road
Philadelphia, Pennsylvania 19114;

and

Jodi Roseman, Special Education Director,
440 N. Broad Street,
Suite 313
Philadelphia, PA 19130-4015;

and

Ms. Lisa Lynch
Swenson Arts and Technology High School
2750 Red Lion Road
Philadelphia, Pennsylvania 19114;

and

Carson Valley Children's Aid
1419 Bethlehem Pike
Flourtown, PA 19031

and

John Does 1-10;

Defendants.

Civil Action No.:

17 0318

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs, MJG, a minor, by and through her Parent, Princess J. ("Parent"), and Parent, in her own right, for their causes of action against Defendants, allege and state as follows:

INTRODUCTION

1. This action is brought by a student with disabilities and her Parent under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* (hereinafter the "IDEA"), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq.* ("Section 504"), 42 U.S.C. §1983, Title IX of the Civil Rights Act of 1964 ("Title IX"), 42 U.S.C. §1983, and the Americans with Disabilities Act, 42 U.S.C. § 12131 *et seq.* ("ADA"), along with relevant state law claims.

PARTIES

2. Plaintiff MJG is a resident of the Commonwealth of Pennsylvania. MJG is a minor, under the age of 18, and she has intellectual disabilities. During the relevant time period, MJG has resided within the School District of Philadelphia and has attended schools operated by the School District of Philadelphia.
3. Princess J. is the parent and legal guardian of MJG.
4. Defendant School District of Philadelphia was at all times relevant to the instant action a public school district within the Commonwealth of Pennsylvania with a principal place of business at 440 North Broad Street, Suite 313, Philadelphia, Pennsylvania 19130. Defendant School District of Philadelphia was established by an act of the General Assembly, Public School Code of 1949, Act of March 10, 1949, P.L.30, as amended, Title 24 P.S. §§ 1-101-27-2702. Defendant School District of Philadelphia operated as an independent home rule school district under the First Class City Public Education Home Rule Act, Act of August 9, 1963, P.L. 643, as

amended, Title 53 P.S. §§13201-13223. Defendant School District of Philadelphia acted as an agent of the Commonwealth of Pennsylvania regulated by the Pennsylvania Department of Education for the sole purpose of administering the Commonwealth's constitutional, statutory and contractual obligation to maintain and support a system of public education in the City of Philadelphia and at all times relevant to the instant Complaint was the public employer of and/or contracted with all named individual defendants.

5. Defendant Ms. Langston was at all relevant times the principal at Swenson Arts and Technology at 2750 Red Lion Road, Philadelphia, Pennsylvania, 19114, for the School District of Philadelphia.
6. Defendant, Ms. Lynch was the teacher that had direct supervisory control over MJG's classroom during the relevant time period at Swenson Arts and Technology at 2750 Red Lion Road, Philadelphia, Pennsylvania, 19114, for the School District of Philadelphia.
7. Defendant Carson Valley Children's Aid ("CVCA"), located at 1419 Bethlehem Pike, Flourtown, PA 19031, staffed the TSS worker assigned to MJG and determined the level of TSS services that would be provided to MJG.
8. Defendants, John Doe 1-10, are sued under fictitious names for the reason that their true names, capacities and responsibilities are presently unknown to Plaintiff, but upon information and belief they are persons, entities, governmental agencies, and/or partnerships who were in some manner presently unknown to Plaintiffs engaged in the activities alleged herein; and/or are in some manner responsible for the injuries and damages to the Plaintiffs. Plaintiffs will seek leave to amend this Complaint when the true names and capacities of the "Doe" Defendants have been

ascertained.

9. Individuals named in the complaint will collectively be referred to as "Individually Named Defendants."

JURISDICTION AND VENUE

10. This action is brought pursuant to 42 U.S.C. §1983 and other federal statutes. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343(1), (3) and (4) and the aforementioned statutory provisions.
11. This Court has jurisdiction over Plaintiffs' claim seeking enforcement of the settlement agreement between the District and the Plaintiffs relating to the state administrative proceeding (Count VIII) pursuant to IDEA, 20 U.S.C. § 1415(f)(1)(B)(iii); 34 C.F.R. § 300.510(d)(2).
12. Plaintiffs further invoke the supplemental jurisdiction of this Court under 28 U.S.C. § 1367(a) to adjudicate claims arising under relevant state law.
13. Plaintiffs are not required, under IDEA, 20 U.S.C. § 1415(i)(ii), (l), to exhaust administrative remedies with respect to the claims presented in this Complaint because (a) with respect to Counts I-VII and IX, Plaintiffs do not seek any relief that is also available under IDEA and, as part of the Settlement Agreement referred to herein, Plaintiffs released all educational claims against the District arising out of the denial of a "free appropriate public education" (FAPE) to MJG under IDEA and Section 504; and (b) with respect to Count VIII, this Court has independent jurisdiction over the enforcement of the Settlement Agreement under IDEA pursuant to 20 U.S.C. § 1415(f)(1)(B)(iii).
14. Venue is proper pursuant to 28 U.S.C. Sec. 1391 as Defendants all operate and/or are employed and/or are residents of this district. Furthermore, all claims of action

arise from events which took place in this judicial district.

FACTS

15. MJG, date of birth, 3/6/2000, resides with her Parent, PJ, within the boundaries of the School District of Philadelphia (hereinafter, the "District").
16. MJG is a "child with a disability" under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Sec. 1402(3)(A), 34 C.F.R. sec 300.8, a "qualified individual with a disability" within the meaning of Sec. 504 of the Rehabilitation Act (herein "Section 504"), 28 U.S.C Sec. 705(20) and Title II of the Americans with Disabilities Act, 42 U.S.C. Sec. 12131(2).
17. On 2/18/2016, MJG was sexually assaulted by another student on District property.
18. The sexual assault occurred during school hours – lunch – at Swenson Arts and Technology High School, in Philadelphia, Pennsylvania.
19. On this day, MJG was at lunch, unsupervised, when another student approached her and lured her out the door of the lunch room which exited directly outside. The door was not locked nor was there proper supervision, surveillance, or control over this exit. The report of a Comprehensive Biopsychological Re-Evaluation (CBR) of MJG conducted by CVCA immediately after the incidents of February 18, 2016, attached hereto as "Attachment A" (the "CVCA Report") revealed that the outside area where the assault of MJG took place "is a loading area and has traffic etc thus putting [MJG] at additional risk." (Att. A, p. 3.)
20. Parent avers that at this time there should have been TSS services provided by CVCA, or one-on-one supervision provided by the District, to prevent such situations.
21. At the time of assault, MJG was allotted 15 hours (3 hours a day) of TSS services

assigned through CVCA. MJG was formerly entitled to 38.5 hours (full days) of TSS services, but those services were reduced shortly prior to the incident of February 18, 2016, without justification.

22. Upon information and belief, the reduction in the allotment of TSS services to 15 hours was inappropriate and unjustified. MJG was not given any supervision during unstructured times such as lunch.

23. CVCA and the District were well aware that, at the time of the assault, MJG continued to exhibit “elopement risks and concerns”; that MJG had been exposed to sexually explicit content in the computer lab; that she was and is particularly vulnerable to peer-to-peer pressure because she is “not able to say no nor aware of how to handle” sexually charged or awkward peer-to-peer situations; and that her inappropriate behavior and elopement tendencies required steady redirection from a TSS. (Att. A, pp. 3-5.) The CVCA Report concludes that without a support system, behaviors like these are exhibited often within the school setting – **daily** – and **have been present for several years**. (Att. A, pp. 4-5.)

24. The CVCA Report notes communications concerns with respect to MJG, bullying by peers, difficulty with appropriate social interactions, difficulty following instructions, and inability to positively cope, and that **these difficulties have existed daily for several years**. (*Id.*)

25. Upon information and belief, all social, behavioral, and cognitive factors that lead to and/or contributed to MJG’s sexual assault have existed for several years and been exhibited daily. All Defendants knew or should have known about these ongoing difficulties.

26. Upon information and belief, the assailant that assaulted MJG also did not have an

assigned aid or TSS worker during this time period though it is believed that this individual needed one.

27. Upon information and belief, the District knew or should have known that the assailant had sexually exploitive tendencies. Specifically, Parent had complained of this same individual attempting to seduce MJG on previous occasions.

28. Once outside on February 18, 2016, the assailant removed MJG's pants and underwear, took out his penis, and proceeded to sexually assault MJG.

29. CVCA concludes that MJG and her assailant "had the opportunity to leave school grounds due to lack of supervision." (Attachment A)

30. MJG wears a belt every day as she feels uncomfortable without one. Though MJG can partially dress herself, her IEP notes that she does not have the fine motor skills to undo certain items, such as a belt. Therefore, MJG would have needed assistance to remove her pants on the day in question.

31. Due to MJG's limited cognitive ability, she is unable to consent to any kind of sexual contact, and is unable to process the consequences of many of her actions and/or the intentions of other individuals. She is easily influenced by others and essentially an easy target for sexual assault or exploitation. MJG was not a willing participant in the events described herein.

32. The District evaluated and was aware of MJG's cognitive abilities. CVCA also evaluated and was aware of MJG's abilities.

33. After the sexual assault MJG never returned to Swenson and missed approximately four months of school.

34. The District was unable to accommodate MJG's safety and educational needs following the incident. The four months that MJG missed can be directly attributed

to the District's failure to appropriately respond to the incident. The District failed to timely implement appropriate remedial support and services following the incident.

35. Parent immediately sought trauma therapy for MJG following the incident.

36. MJG was evaluated by Joseph J. Peters Institute following the assault. The report was provided to the District. The sexual assault incident was corroborated by the evaluator and the following treatment recommendations were made:

- a. MJG is recommended to receive additional support with life skills training through Carson Valley Children's Aid. She would benefit from additional attention towards building adaptive functioning skills with her current behavioral specialist. Additionally, MJG should be given the space to process any thoughts and feelings she might have regarding difficult experiences.
- b. MJG is also recommended to receive constant supervision in school. She would benefit from additional supervisory hours through her TSS in order to maintain safety in the classroom. Due to limitations in MJG's ability to engage in daily living activities and her limitations with adaptive functioning, one-on-one services are also recommended.
- c. It is important that MJG's caregiver participate adjunctively in treatment with her.

37. When Extended School Year services began the summer following the sexual assault, the District placed the assailant in the same classroom as MJG.

38. As a result of the assault, MJG was forced to transfer to another school building much further from her home, in a more restrictive environment. The perpetrator was allowed to stay in the classroom.

39. The District did not offer to provide a one-on-one full-time aid for MJG leading up to or immediately following the incident, despite there being an obvious need for such support considering MJG's vulnerability.
40. The District, CVCA, and employees at Swenson Arts and Technology High School knew about sexually inappropriate actions of students in MJG's program during the years prior to the current school year.
41. The District, CVCA, and employees at Swenson Arts and Technology High School knew or should have known about prior instances of sexually inappropriate behavior of the particular student who assaulted MJG.
42. Specifically, during the 2014-2015 school year MJG reported to Parent that the same student who assaulted her showed her his penis and attempted to get her to touch it. Parent reported this incident to Ms. Lynch, and Ms. Lynch confirmed that she may have seen something going on, but she really did not know what it was.
43. In January of 2016 another red flag arose when MJG reported to parent that she saw other students in her program inappropriately touching/showing genitals in the library.
44. Parent went to the school and met with Defendant Ms. Lynch, again, and reported this information to her. Ms. Lynch responded with, "Wow. I can't believe she told you that."
45. The District, CVCA, and employees were expecting none of this sexually inappropriate behavior among the students to get back to parents. Upon information and belief, they actively attempted to conceal this information from parents.
46. The District failed to respond to these incidents and also breached their obligations to report these incidents to appropriate authorities.

47. MJG's sexual assault on 2/18/2016 was both foreseeable and preventable.
48. As acknowledged by CVCA, MJG has suffered psychological and emotional trauma as a result of the incidents of sexual harassment and assault experienced at Swenson, and CVCA has reported that MJG requires treatment not just in the school setting but also within the home and community. (Att. A, p. 3.)
49. Upon information and belief, the listed incidents herein are not the only incidents of sexual aggression in MJG's program. MJG has severe communication deficits and, upon information and belief, there were other incidents, directly involving or witnessed by MJG, that she was unable to explain or report to Parent because she possibly did not understand or have the vocabulary to explain them to Parent.
50. The failure to report, respond to, and prevent the sexual assault of students is part of a systematic failure within the District.
51. The student who assaulted MJG still remained in the school, in the same classroom, after the incident.
52. On 7/19/2016, Plaintiffs filed a Due Process Complaint against the District with the Pennsylvania Office For Dispute Resolution under IDEA and Section 504, alleging, *inter alia*, a failure to provide MJG a FAPE.
53. The parties to the due process proceeding met for a resolution session on August 3, 2016, in accordance with the requirements of IDEA, 20 U.S.C. § 1415(f)(1)(B), and came to an agreement to resolve Plaintiffs' Due Process claims under IDEA and Section 504, and the Pennsylvania regulations thereunder, related to the provision of a FAPE. The Settlement Agreement and Specific Release between Parent and the District (the "Settlement Agreement") was signed on September 27, 2016. (See "Attachment B".)

54. As part of the Settlement Agreement, the District agreed to “pay reasonable attorney fees and costs to Joseph Montgomery, Esquire, for time expended and costs on this matter to the date of this Agreement.” (Attachment B, p. 4.)
55. Mr. Montgomery delivered to the District a fully executed Settlement Agreement, and a detailed invoice for legal fees, on September 27, 2016.
56. The District has refused to pay Mr. Montgomery reasonable attorney fees, even after Mr. Montgomery provided a bill reflecting a reduced rate in order to promote resolution.
57. All Defendants acted knowingly, improperly and with deliberate indifference with respect to the violations of Plaintiffs’ rights under Section 504, ADA and the U.S. Constitution.
58. All Defendants’ actions described herein were taken in accordance with a custom, policy, and/or practice of the District.
59. All defendants continued their actions (or lack of action) even after complaints of multiple students alleging similar constitutional and statutory violations.
60. All defendants’ conduct was carried out willfully and wantonly and/or with reckless disregard of Plaintiffs’ rights and feelings.
61. In their actions and omissions complained of here, all of the named defendants proceeded under color of state law to cause the deprivation of Plaintiffs’ federally protected rights and resulting injuries.
62. The Constitutional and statutory rights violated by the Defendants were clearly established at the time of such violations, and each of the Defendants knew or should have known that his/her/its actions were violating Plaintiffs’ rights as described herein.

63. All defendants' conduct was so obviously violative of Plaintiffs' rights, and Plaintiffs' resulting damages so severe, that it shocks the conscience.

64. All harm to the Plaintiffs was foreseeable.

COUNT I - VIOLATION OF TITLE IX, 20 U.S.C. SEC. 1681

(Student-on-student sexual harassment/discrimination)

Defendants: The District and CVCA

65. Plaintiffs incorporate the above and below paragraphs as if fully set forth herein.

66. Defendants created and/or permitted to continue sexual harassment and a hostile educational environment in violation of Title IX, 20 U.S.C. Sec. 1681(a).

67. Due to Defendants' failure to properly act, MJG was made more vulnerable to sexual harassment and assault at school and was, in fact, the victim of sexual assaults by other student(s) at Swenson Arts and Technology High School.

68. Defendants all had the authority and duty to take corrective measures after reported and/or witnessed sexual harassment, but all were deliberately indifferent.

69. Defendants had authority to take preventative measures prior to actual sexual harassment when red flags of potential sexual harassment and abuse became apparent, but all were deliberately indifferent to the likely prospects of such harassment and abuse.

70. The sexual harassment and abuse had the systemic effect of discriminating against MJG on the basis of her disability and her sex.

71. The sexual harassment and abuse at Swenson was so severe, pervasive and objectively offensive that it deprived MJG of access to the educational opportunities and benefits that the District was meant to offer.

72. MJG suffered severe and permanent psychological damage and emotional distress

as a direct and proximate result of the Defendants' violation of her rights.

73. MJG's Parent has also suffered severe and permanent psychological damage and emotional distress as a direct and proximate result of the Defendants' violation of MJG's rights.

74. WHEREFORE, Plaintiffs demand judgment for compensatory and punitive damages against the indicated Defendants, together with court costs, interest and attorneys' fees.

COUNT II - VIOLATION OF U.S.C. § 1983

(Fourteenth Amendment: state created harm)

All Defendants

75. Plaintiffs incorporate the above and below paragraphs as if fully set forth herein.

76. Under the Fourteenth Amendment of the United States Constitution, MJG had the right, as a public school student, to personal security, bodily integrity and Equal Protection under the law.

77. The Individually Named Defendants are all state actors and/or were acting under color of law, and, in the case of CVCA, under contract with the School District of Philadelphia to provide educational services on behalf of the public school system.

78. Defendants' actions and omissions detailed herein violated Plaintiff MJG's rights under the Fourteenth Amendment to the United States Constitution.

79. MJG's assault was both foreseeable and preventable.

80. It was not reasonable for Defendants to ignore unsupervised students with sexually exploitive tendencies when it was clearly foreseeable that by doing so, MJG faced a palpable risk of harm, and they failed to take reasonable steps to avoid the harm.

81. Defendants actions and/or inaction would shock the conscience of a reasonable

person under similar circumstances.

82. As a minor with a significant cognitive disability, MJG was an obvious member of a class vulnerable to the harm brought about by the Defendants' actions and inaction.

83. By way of Defendants' actions and/or inactions, Defendants utilized their position of authority to create a danger to MJG and/or placed MJG in a position that made her vulnerable to the known risk of harm.

84. Defendants acted intentionally or with deliberate indifference.

85. Plaintiffs have suffered severe and permanent psychological damage and emotional distress as a direct and proximate result of the defendants' actions/inaction and violation of MJG's rights.

86. Defendants Roseman, Langston and Lynch are sued in their official and individual capacities.

87. WHEREFORE, Plaintiffs demand judgment for compensatory and punitive damages against Defendants, together with court costs, interest and attorneys' fees.

COUNT III - VIOLATION OF U.S.C. § 1983

(Fourteenth Amendment: failure to train or supervise)

All Defendants

88. Plaintiffs incorporate the above and below paragraphs as if fully set forth herein.

89. Under the Fourteenth Amendment to the United States Constitution, MJG had the right, as a public school student in the care of the District, to personal security, bodily integrity and Equal Protection under the law.

90. The Individually Named Defendants are all state actors and/or were acting under color of law, and, in the case of CVCA, under contract with the School District of Philadelphia to provide educational services on behalf of the public school system.

91. The Individually Named Defendants all failed to preserve and protect Plaintiffs' rights under the United States Constitution.
92. The Individually Named Defendants all knew or should have known that their actions/inaction would constitute a violation of MJG's clearly established rights.
93. Defendant School District of Philadelphia and Defendants Roseman and Langston violated MJG's constitutional right to bodily integrity by failing to properly train and supervise the District's employees as to the risks associated with their action and/or inaction described herein.
94. Defendants' actions and inaction demonstrate an adopted practice, custom or policy of the District that was adopted and maintained in deliberate indifference to MJG's safety.
95. The policy-maker Defendants named herein knew to a certainty or near certainty that employees and independent contractors for the District would confront these types of sexual harassment and abuse.
96. Proper training and supervision in the areas of sexual harassment, bullying and intimidation could have reduced or eliminated the harm.
97. The School District of Philadelphia, violated MJG's constitutional right to bodily integrity by failing to properly screen employees and sub-contracted service providers before hiring.
98. Defendants acted or failed to act intentionally or with deliberate indifference to the consequences for Plaintiffs.
99. Plaintiffs have suffered severe and permanent psychological damage and emotional distress as a direct and proximate result of the Defendants' violations of MJG's rights.

100. Defendants Roseman, Langston and Lynch are sued in their official and individual capacities.

101. WHEREFORE, Plaintiffs demand judgment for compensatory and punitive damages against the Defendants, together with court costs, interest and attorneys' fees.

COUNT IV - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

All Defendants

102. Plaintiffs incorporate the above and below paragraphs as if fully set forth herein.

103. Defendants engaged in extreme and outrageous conduct.

104. Defendants intentionally and/or recklessly engaged in the extreme and outrageous conduct.

105. As a result of intentionally and/or recklessly engaging in extreme and outrageous conduct, Defendants caused Plaintiffs severe emotional distress.

106. MJG was under the direct supervision and custody of the District, CVCA and the Individually Named Defendants.

107. The Individually Named Defendants owed MJG a duty of reasonable care.

108. The Individually Named Defendants knew MJG was victim of sexual harassment.

109. The Individually Named Defendants had the opportunity to intervene to stop the assault that MJG endured.

110. The Individually Named Defendants were substantially certain that sexual harassment or assaults would continue to occur and MJG would suffer emotional distress if they did not intervene.

111. The Individually Named Defendants failed to take appropriate preventative and remedial actions with respect to the sexual harassment and assault of MJG and

the risk of such harassment and assault.

112. The Individually Named Defendants' failures to intervene and take preventative action amounted to outrageous conduct.

113. Plaintiffs have suffered severe and permanent psychological damage and emotional distress as a direct and proximate result of the defendants' outrageous conduct.

114. Defendants Roseman, Langston and Lynch are sued in their official and individual capacities.

115. WHEREFORE, Plaintiffs demand judgment for compensatory and punitive damages against the Defendants, together with court costs, interest and attorneys' fees.

COUNT V – AMERICANS WITH DISABILITIES ACT, 42 U.S.C. § 12131

(Failure to Accommodate)

All Defendants

116. Plaintiffs incorporate the above and below paragraphs as if fully set forth herein.

117. Under Title II of the ADA, no "qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. Sec. 12132.

118. A "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies or practices ... meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity." 42 U.S.C. § 12131(2).

119. To establish a violation under Title II, Plaintiffs must show that the defendant is a “public entity.” *CG v. Pa. Dep’t of Educ.*, 734 F3d 229,235 (3d Cir. 2013).
120. CVCA is a “public entity” because, in performing services to the District integral to the public education system, CVCA acted as an instrumentality of the District and the Commonwealth of Pennsylvania.
121. Each of Defendants Roseman, Langston and Lynch is a policy-making or supervisory official of the District.
122. To state a failure to accommodate claim, a plaintiff must show that (1) she has a disability; (2) she is otherwise qualified to participate in a program; and (3) she was denied the benefits of the program or discriminated against because of the disability.
123. The Defendants have violated MJG’s rights under Title II of the ADA, as she is a qualified individual with a disability; each of the Defendants is a public entity or an official of a public entity; MJG is qualified to participate in the program as she is a school age individual; and she was denied the benefits of the program based on her disability.
124. Specifically, MJG’s rights were denied by the Defendants’ failing to accommodate MJG’s disabilities through both action and inaction. There failures include but are not limited to:
 - i. Failure to provide appropriate social skills training;
 - ii. Failure to provide appropriate sexual education to special education students;
 - iii. Failure to provide a safe and secure environment;
 - iv. Failure to provide appropriate placement;

- v. Failure to provide building accommodations with protected points of entry/exit;
- vi. Intentionally ignoring sexually inappropriate and aggressive acts committed by students in MJG's program, and the warning signs of same, because they were perpetrated against and/or perpetrated by individuals with qualified disabilities;
- vii. Failure to provide a one-to-one full time aide to MJG;
- viii. Failure to timely secure a transfer for MJG;
- ix. Failure to hire appropriately trained staff that could accommodate MJG's disability;
- x. Failure to contract with staffing agencies that could accommodate MJG's needs as they relate to her disability; and
- xi. Failure to take appropriate remedial action in response to actual instances of sexual harassment and sexually aggressive behavior at Swenson, including behavior suffered or witnessed by MJG.

125. The foregoing failures, taken individually and together, denied MJG access to the benefits of her program and discriminated against her on the basis of her disability.
126. The indicated Defendants acted in bad faith or with gross misjudgment by their behaviors described in Paragraph 124.
127. Each of Defendants Roseman, Langston and Lynch is sued in her official capacity.
128. WHEREFORE, Plaintiffs demand judgment for compensatory and punitive damages against the Defendants, together with court costs, interest and attorneys' fees.

COUNT VI - NEGLIGENCE

CVCA, Langston, Roseman and Lynch

129. Plaintiffs incorporate the above and below paragraphs as if fully set forth herein.
130. Defendants owed MJG a duty of care during the relevant time period that she attended school at Swenson Arts and Technology.
131. The Defendants' duty of care described herein is, in part, regulated by Pennsylvania law regarding the welfare of minors and mandated reporting. The Defendants violation of these relevant legal statutes constitutes *per se* negligence.
132. Defendants failed their duty of care owed to MJG by failing to prevent and properly respond to foreseeable harm.
133. The Defendants' failures were the proximate cause of the injuries to Plaintiffs.
134. Plaintiffs have sustained actual damages.
135. Defendants Roseman, Langston and Lynch are sued in their individual capacities.
136. WHEREFORE, Plaintiffs demand judgment for compensatory and punitive damages against Defendants, together with court costs, interest and attorneys' fees.

COUNT VII - SECTION 504 OF THE REHABILITATION ACT OF 1973,

29 U.S.C. § 794

All Defendants

137. Plaintiffs incorporate the above and below paragraphs as if fully set forth herein.
138. The District and CVCA are both a recipient of federal financial assistance.
139. Each of Defendants Roseman, Langston and Lynch is a policy-making or supervisory official of the District.
140. Defendants' actions and inaction as described herein intentionally discriminated

- against MJG on the basis of her disability, and/or were deliberately indifferent while discriminating against MJG.
141. With actual knowledge of past incidents and present risks of sexual harassment and abuse, Defendants failed to implement a program or procedures that would prevent the sexual harassment and abuse suffered by MJG; failed to take the appropriate remedial action in response to actual instances of sexual harassment and sexually aggressive behavior at Swenson, including behavior suffered or witnessed by MJG; and engaged in the other acts and omissions described herein, thereby discriminating against MJG on the basis of her disability.
142. The Individually Named Defendants and employees of the District knew or should have known that they were violating MJG's rights, had the authority to correct the violations, and failed to do so.
143. MJG and Parent suffered damages as a result of the Defendants' actions and omissions in violation of Section 504.
144. Each of Defendants Roseman, Langston and Lynch is sued in her official capacity.
145. WHEREFORE, Plaintiffs demand judgment for compensatory and punitive damages against Defendants, together with court costs, interest and attorneys' fees.

COUNT VIII – IDEA, 20 U.S.C. § 1400 et seq.

(Enforcement Action – Breach of Contract)

Defendant School District of Philadelphia only

146. Plaintiffs incorporate the above and below paragraphs as if fully set forth herein.
147. The IDEA and its implementing regulations require that students with disabilities be provided access to a free and appropriate public education (FAPE).

148. The Plaintiffs and the District are parties to the Settlement Agreement.
149. The District in is breach of the Settlement Agreement for failure to pay Mr. Montgomery's fees.
150. Plaintiffs offered the District a reduced rate of fees to resolve to avoid litigation of this issue, but the District has refused to pay the reasonable fees reflected in Mr. Montgomery's invoice sent September 27, 2016.
151. Plaintiffs have continued to incur legal fees as a result of the breach of the Settlement Agreement by the District.
152. Parents are also entitled to attorneys' fees in pursuit of this current complaint and enforcement of the Settlement Agreement.
153. At all relevant times, Plaintiffs were represented by the undersigned.
154. WHEREFORE, Plaintiffs demand a judgment specifically enforcing the Settlement Agreement, and a judgment for compensatory damages, together with court costs, interest, attorneys' fees and all other relief permitted by the Court related to the underlying Due Process action.

COUNT IX - BREACH OF FIDUCIARY DUTY

Defendants the District, Roseman, Langston and Lynch

155. Plaintiffs incorporate the above and below paragraphs as if fully set forth herein.
156. A fiduciary relationship exists with between the named Defendants and Plaintiff, MJG, as the individuals hold overmastering influence over a dependent MJG.
157. As part of their fiduciary duty, the named Defendants had the obligation to act in the best interest of MJG, including but not limited to, ensuring MJG's safety and responding appropriately to clear and present dangers.
158. The named Defendants breached their fiduciary duty by their failures as they

relate to the sexual harassment and assault of MJG.

159. The breach of fiduciary duty has led to foreseeable and actual damages.
160. Defendants Roseman, Langston and Lynch are sued in their official and individual capacities.
161. WHEREFORE, Plaintiffs demand judgment for compensatory and punitive damages against the named Defendants, together with court costs, interest, and attorneys' fees.

JURY DEMAND


Plaintiffs request a jury trial on all issues so capable of being so tried.

Respectfully submitted,

MONTGOMERY LAW, LLC

BY: 
ZACHARY MEINEN
ATTORNEY FOR PLAINTIFFS

-AND-

BY: 
JOSEPH MONTGOMERY
ATTORNEY FOR PLAINTIFFS

ATTACHMENT A

NOTE: Selected names and dates have been redacted for privacy and protection of a minor.

Carson Valley Children's Aid
Comprehensive Biopsychological Re-Evaluation (CBR)

Child/Adolescent: [redacted] e
Date of Evaluation: 02/22/2016
Date of Previous Evaluation: 03/09/2015
Evaluator: Christina Wohleber, PsyD

CONFIDENTIAL

NOTICE: This report contains material that is considered "Protected Health Information" under the Health Information Portability and Accountability Act of 1996 (HIPPA). Transmission and storage of this information should conform to CVCA's policy on transactions, security, and privacy, which is available upon request.

Date of Birth: 03/06/2001
Chronological Age: 15 years, 11 months, and 6 days
Gender and Race: Female/African American
Residence: [redacted]
Phone: [redacted]
Current School: Swenson Tech and Arts
Grade / Type of Support: 10th grade/ASD

Family (include any changes in living arrangements since the last evaluation):

Caregiver #1: [redacted] (DOB: 11/11/)
Relationship to Child/Adolescent: Biological Mother
Employment Status: Not disclosed

Caregiver #2: [redacted] (DOB: 06/30/)
Relationship to Child/Adolescent: Mother's fiancé
Employment Status: Not disclosed

Residents in the Home:

[redacted] currently resides with her mother, [redacted], 3 sisters, (ages 13, 10, and 9) and mother's fiancé, [redacted].

Participants (Who attended the evaluation?):

[redacted] (Client)
[redacted] (Mother)
[redacted] (mother's fiancé)
[redacted] (CVCA BSC)
[redacted] (CVCA Case Manager)

Sources of Information:

Clinical interview with the following individuals:
[redacted] (Client)

Comprehensive Biopsychological Re-Evaluation (CBR): REDACTED-G ,
REDACTED Date of Evaluation: 02/22/2016
Date of Birth: 03/06/20

(Mother)
(mother's fiancé)
Kai Wleh (CVCA BSC)
Timothy McCloud (CVCA Case Manager)

Review of documents:

Comprehensive Biopsychosocial Re-evaluation (CBR) completed by Jennifer McLaren, Psy.D. through Green Tree School and Services dated 03/09/2015
Psychological Addendum for BHRS completed by Mitchell Liss, Psy. D. through CVCA dated 12/21/2015

Strengths:

is communicating more. She is learning and trying to interact with others; she will follow social cues at times. She loves to color.

Family's Spiritual and Cultural Orientation and relevance to family: M is of African American descent. No spiritual orientation was noted at this time.

Would you like to include your spiritual beliefs in your treatment recommendations?
Declined.

Client's interests and hobbies:

REDACTED enjoys being with her family and coloring.

Discuss Available Natural Supports (Religious Affiliation, Community Supports, Neighbors, etc):

has a very supportive family.

Clinical Justification for Evaluation Update:

was referred for a biopsychosocial re-evaluation to assess current factors that are contributing to her problematic behaviors within the school, community, and home settings. The evaluation will assess psychological and social strengths and problem areas to inform a conceptualization, diagnosis, and medically necessary and least restrictive interventions.

Comprehensive History of Present Illness Update:

Records indicate that ED has exhibited behavioral difficulties assisted with her diagnosis of autism spectrum disorder with intellectual disabilities. It is rep REDACTED has struggled with difficulties with socialization and communication for several years as a result of her diagnosis.

Comprehensive Biopsychological Re-Evaluation (CBR): REDACTED, REDACTED

Date of Evaluation: 02/22/2016

Date of Birth: 03/06/2

Chief Complaint / Presenting Problems Update:

Brief History/Update:

REDACTED is an 15 year old, African American female who has a history of Autism Spectrum Disorder and Intellectual Disabilities. Moderate improvements have been noted over the past authorization period. However, a recent traumatic issue occurred less than a week prior to this evaluation which has impacted REDACTED significantly. It is reported that there are specific impairments within social skills and communication which necessitates additional supports and resources in order for REDACTED to progress in these areas. Over the current authorization period it is reported that _____'s symptoms continue to impede her progress on goals and impact her day to day functioning due to their frequency and intensity. No recent crises have been noted over the past authorization period; however, a recent traumatic incident occurred which warrants an increase in supports and resources as a means to assist positive coping related to this experience. M _____'s symptoms continue to occur within the home and community settings, as well as, within the school setting. It is reported that _____'s behavioral issues began when she was young. It is reported that her symptoms have followed a chronic and variable course. REDACTED and her family are reported to have a strong therapeutic rapport with her current treatment team. REDACTED is not currently appropriate for outpatient treatment at this time as her symptoms are only moderately improving at this level of care at this time. Due to the recent trauma experience REDACTED is in need of an increase in supports in order to assist in minimizing any regression in progress. In addition, treatment needs to occur within the home, community, and school settings to assist with _____'s current symptoms. No acute and imminent risk of serious harm to herself or to others that warrants either family based services or admission to a residential treatment center.

It is reported that last week at school a peer took _____ outside without supervision. Ms. REDACTED reported that the peer and REDACTED were seen on camera outside. It is reported that REDACTED told her family that the peer asked her to take off her pants and she reported to the peer that she did not want to do it. It is reported that REDACTED said that she told him no but the peer was her best friend so she did. It is reported that the peer took _____ behind a wall at school and that they had an opportunity to leave school grounds due to lack of supervision. In addition, it is reported that this area is a loading area and has traffic etc thus putting _____ at additional risk. Ms. REDACTED reported that she contacted the police last week and was at the school to address these issues. In addition, Ms. REDACTED reported that she has an appointment with the special victims unit this Friday to continue to address this issue. Ms. REDACTED reported that she is in process of pressing charges regarding the incident. As a result _____ has been kept out of school since the incident due to issues regarding the experience and concerns for her safety. Additionally the peer that is alleged to have committed this offense still remains in Marquette's classroom at the time. It is reported that M _____'s social skill deficits further complicates this experience. Tx team reports that they are going to work with Ms. REDACTED to find an alternative placement for school as this school does not appear to assist in transfer for skills in a safe environment. It is reported that REDACTED has made comments regarding this incident such as the

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"TSS-S was not there to help Kita." Ms. REDACTED reported that she is unsure if she is going to keep REDACTED out of school until a resolution can be found as she is concerned for her daughter's safety but also academics.

REDACTED still struggles with exhibiting positive coping skills, such as deep breathing and counting to ten. When she gets upset she will shut down. It is reported that this is very frustrating to adults as once REDACTED shuts down it is difficult for them to reengage her. It is reported that this is seen daily, present for several years, and moderate in intensity at this time.

It is reported that REDACTED and treatment team are working on follow instruction on the first prompt. REDACTED continues to exhibit difficulty with following prompts and directives. In addition, she continues to exhibit difficult with being able to follow complex directives and cannot follow these directives. It is reported that she will shut down when she cannot follow complex directives. It is reported that REDACTED can follow requests but that they must be short and concise. In addition, REDACTED needs time in between directives in order to process the directive. It is reported that treatment team is working across setting to assist in transferring skills such as the need to turn instruction into requests instead of demands as this typically cause REDACTED to shut down. In addition, treatment team is assisting others in using short, precise terms with time in between prompts to process prompts and directives. Additionally, it is reported that when REDACTED feels that she is not given a choice regarding completion of tasks or directive she will shut down. It is reported that this is seen daily, moderate to severe in intensity, and present for several years.

REDACTED continues to struggle with appropriate social interactions. The treatment team is continuing on working with REDACTED in learning healthy and reciprocal social skills. Recently, REDACTED she started in the social skills group at SPIN this week. It is reported that her goal there is to see how she can increase her ability to engage in reciprocal communications. REDACTED reported that she really likes the social skills group. It is reported that can she read and watch movies. It is reported that she can say hello to peers. However, she struggles to engage in conversations, such a being able to explain to peers what she has done, engage in sharing or taking turns. It is reported that REDACTED takes a long time to warm up and engage with unfamiliar individuals. It is reported that she will not talk with people that she is not familiar with or comfortable around but she will talk at home to family. However, it is reported that REDACTED than become too trusting to others once she is familiar with them. REDACTED struggles to be able to understand that not everyone has her best interest in mind and she will follow peers' directives although she knows it is wrong. It is reported that she is very often influenced by peers which can impact her in a negative way. It is reported that this is seen daily, severe in intensity, and present for several years.

REDACTED continues to exhibit elopement risk and concerns. For instance, it is reported that she was lead outside of her school without supervision by a peer when her TSS-S was not present. It

Comprehensive Biopsychological Re-Evaluation (CBR): REDACTED , REDACTED

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is reported that REDACTED was aware that this was wrong but because it was her friend and she did not have anyone to turn to in order to consult with if she should follow the directive she went outside with this peer. It is reported that while outside the peer asked her to pull down her pants and although she told the peer she did not want to she still obliged the peer because he was her friend. It is reported that another incident occurred at school when peers were looking at inappropriate sites in the computer lab and REDACTED was exposed to this because she was not able to stay no or aware of how to handle the situation. It is reported by BSC, Mr. Wleh that without support system and prompting/redirection of TSS-S behaviors are often exhibited within the school setting. It is reported that this is seen daily, moderate to severe in intensity, and present for several years.

It is reported that REDACTED continues to exhibit difficulties with communication. Although REDACTED is more expressive at this time she continues to struggle with verbalization and communication with others. Adults are often frustrated because they cannot understand her which leads to REDACTED shutting down. Mr. Wleh reports that additional progress cannot be achieved without TSS-S prompting REDACTED to express self. It is reported that this is seen daily, severe in intensity, and present for several years.

It is reported that REDACTED often experiences bullying by peers. Ms. REDACTED reported that REDACTED will come home and reported that peers are sticking their tongue out at her and calling her names, such as stupid. As a result of this it is reported that REDACTED does not want to go to school. Ms. REDACTED reported that each morning it is a struggle to get her to get up and get ready for school. Ms. REDACTED reported that REDACTED does not want to get ready to go to school and she will fight and complain that she does not want to go school. It is reported that this is seen daily, moderate to severe in intensity, and present for at least a year.

Challenges (barriers to treatment, include child, family, and/or community challenges):

Current barriers to treatment include:

Difficulty with current school placement; lack of communication; social skill deficits; recent experience of trauma.

RELEVANT INFORMATION:

Treatment Plan Review:

Records indicate the following:

Current treatment goals are:

Goal #1 (Increasing Verbal Communication): REDACTED comply with verbal directives given by her mother, without reverting to aggression (as defined as tantruming, crying, yelling or throwing/destroying objects) any more than one time per day.

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Objective #1: REDACTED will engage in an adaptive communication method with the school-based TSS

Objective #2: REDACTED will communicate as needed related to her hygienic needs in school

Goal #2 Increasing social skills:

Objective 1: REDACTED will successfully connect to at least two new adjunct supports/ programs or activities that provide opportunity for social skills and experiences

Objective 2: REDACTED will successfully adjust to the new surroundings of her school, which includes: teacher, classmates, routine and schedule.

Overall Progress:

REDACTED reported that she is being picked on in school. Mother has been to the school and has made a bullying report to the school. REDACTED continues to be easily frustrated, forgetful, displays poor social skills. She shuts down and cries to mother that she does not want to go to school. She has difficulty speaking up for herself in school due to her speech and social skills. Mother has reported that REDACTED has recently regressed in her social skills. At times, REDACTED gets very anxious and she is not able to express what is bothering her. Her mother would like her to increase her ability to talk about "things that are going on in school". Mother also reported that REDACTED continues to have difficulty with the family pet cat. She will squeeze the cat and will lock it in a closet or place it under a blanket. Mother said she has to be supervised when she is around the cat.

Individual Goals/Wishes Update:

NA due to communication difficulties.

Caregiver Goals Update:

Ms. REDACTED reported: "I would like her to communicate better with different peers, make more friends, feel comfortable with self and be confident."

Effectiveness of Interventions:

Current interventions that have been effective include:

Prompting, redirection, breaking down directives, review issues, modeling, coaching, review scheduling, advance rehearsal, and visual schedule have been reported to be moderately effective at this time.

Child Servicing Agencies/ Community Organizations currently involved with the family

Update:

Currently involved with

SPIN NET for social skills group; started last week

Ms. REDACTED is going through legal system as a result of result trauma experienced at school.

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Collaboration with Parent/Guardian:

It is reported that caregivers are involved with treatment and collaborate often with treatment team members. It is reported that they are open and willing to try out different interventions to assist with behavioral modification.

Family Engagement in Services:

Ms. REDACTED and her fiancé, Mr. C was present during today's evaluation and were actively involved and engaged throughout the evaluation. They appeared as a strong and supportive advocate for REDACTED's needs.

Collaboration with School Staff:

Treatment team has appropriate collaboration with school staff. They have regular contact and involvement with Marquette's school staff. Ms. REDACTED reports that she wants more communication with school staff to assist in progress on goals. Mr. Wleh reported that treatment team tried to complete an increase in communication log but has been unsuccessful at this time.

Collaboration with Outside Service Providers:

Outside Services Provide collaborates well with treatment team to assist with behavioral concerns and occurs on an as needed basis.

Collaboration with Community Supports:

NA-no additional community supports involved with REDACTED and her family at this time.

Collaboration with Others - Be Specific:

NA- no additional resources involved with REDACTED and her family at this time.

Behavioral Health Treatment History (Including Psychiatric Supports) Update:

Recent allegation of abuse at school which has impacted her progress on goals and will require trauma focused therapy to address experience. No additional changes to behavioral health treatment have been made.

Medical History (include allergies, nutritional and family medical history) Update:

No updates reported.

Medical Provider Information Update:

- **Family Doctor:** Temple Pediatrics
- **PCP Phone number:** (215) 707-5437
- **Last Annual Physical:** November 2015
- **Results:** No concerns noted

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Current Medications Update:

Not currently prescribed medications.

Social History (Include important or significant People in the Child's life) This should include household members and outside the family Update:

REDACTED continues to struggle with appropriate social interactions. The treatment team is continuing on working with REDACTED in learning healthy and reciprocal social skills. Recently, REDACTED she started in the social skills group at SPIN this week. It is reported that her goal there is to see how she can increase her ability to engage in reciprocal communications. REDACTED reported that she really likes the social skills group. It is reported that can she read and watch movies. It is reported that she can say hello to peers. However, she struggles to engage in conversations, such a being able to explain to peers what she has done, engage in sharing or taking turns. It is reported that REDACTED takes a long time to warm up and engage with unfamiliar individuals. It is reported that she will not talk with people that she is not familiar with or comfortable around but she will talk at home to family. However, it is reported that REDACTED than become too trusting to others once she is familiar with them. REDACTED struggles to be able to understand that not everyone has her best interest in mind and she will follow peers' directives although she knows it is wrong. It is reported that she is very often influenced by peers which can impact her in a negative way.

It is reported that REDACTED continues to exhibit difficulties with communication. Although REDACTED is more expressive at this time she continues to struggle with verbalization and communication with others. Adults are often frustrated because they cannot understand her which leads to REDACTED shutting down.

It is reported that REDACTED often experiences bullying by peers. Ms. REDACTED reported that REDACTED will come home and reported that peers are sticking their tongue out at her and calling her names, such as stupid. As a result of this it is reported that REDACTED does not want to go to school.

It is reported that REDACTED is very close to her family. She often will confide in her sister and mother in regards to negative experiences at school. It is reported that REDACTED engages in social interaction and communication frequently with her family as she feels comfortable with them.

Recreational Activities: drawing, color, attends social skills group through SPIN

Educational/Vocational History (Regular Education or Special Education specify, emotional supports, learning supports, autistic supports, etc.) Update:

REDACTED is at Swenson Tech and Arts in 10th grade. She receives ASD supports within school. This is her second year at this school. Her current grades are: A's and B's. The classroom ratio is 8:1:1. It is reported that treatment team is going to be working with Ms. REDACTED to assist in determining if this is an appropriate fit for REDACTED as a result of result incidents. In addition,

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REDACTED is reported to not want to go to school and have difficulties getting ready for school as a result of experienced bullying by peers.

Assessment of Client and Family Behaviors Update:

REDACTED appears to have a strong relationship with her mother and mother's fiancé. She engaged in respectful interactions with them during evaluation.

Substance Use / Alcohol History Update:

Due to youthful age declined.

Trauma History Update:

It is reported that last week at school a peer took REDACTED outside without supervision. Ms. REDACTED reported that the peer and REDACTED were seen on camera outside. It is reported that REDACTED told her family that the peer asked her to take off her pants and she reported to the peer that she did not want to it. It is reported that REDACTED said that she told him no but the peer was her best friend so she did. It is reported that the peer took REDACTED behind a wall at school and

that they had an opportunity to leave school grounds due to lack of supervision. In addition, it is reported that this area is a loading area and has traffic etc thus putting REDACTED at additional risk. Ms. REDACTED reported that she contacted the police last week and was at the school to address these issues. In addition, Ms. REDACTED reported that she has an appointment with the special victims unit this Friday to continue to address this issue. Ms. REDACTED reported that she is in process of pressing charges regarding the incident. As a result REDACTED has been kept out of school since the incident due to issues regarding the experience and concerns for her safety. Additionally the peer that is alleged to have committed this offense still remains in Marquette's classroom at the time. It is reported that Marquette's social skill deficits further complicates this experience. Tx team reports that they are going to work with Ms. REDACTED to find an alternative placement for school as this school does not appear to assist in transfer for skills in a safe environment. It is reported that REDACTED has made comments regarding this going to keep REDACTED out of school until a resolution can be found as she is concerned for her daughter's safety but also academics.

It is reported that REDACTED often experiences bullying by peers. Ms. REDACTED reported that REDACTED will come home and reported that peers are sticking their tongue out at her and calling her names, such as stupid. As a result of this it is reported that REDACTED does not want to go to school. Ms. REDACTED reported that each morning it is a struggle to get her to get up and get ready for school. Ms. REDACTED reported that REDACTED does not want to get ready to go to school and she will fight and complain that she does not want to go school.

Sexual History (sexual orientation) Update:

Not discussed due to recent allegations regarding traumatic incident at school.

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Legal History Update:

None noted. However, Ms. REDACTED reports that she will be going through the legal system as a result of recent incident at school.

Risk Assessment/Crisis Plan Update:

No suicidal ideation, homicidal ideation, animal cruelty, and firesetting behaviors were noted for REDACTED. Past and current issues: noncompliance, elopement risk, and difficulty with social interactions. Most dangerous recent acts: compliance with requests by peer due to peer friend. Current Risk Level: Moderate to severe

MENTAL STATUS EXAM:

Appearance:

REDACTED appears stated age, casually/appropriately dressed and groomed.

Speech and Language:

REDACTED presented with some speech articulation issues within today's evaluation.

Mood and Affect:

REDACTED displayed with a pleasant mood throughout today's evaluation. Her affect was congruent with the situation.

Thoughts and Perceptions:

No psychosis or hallucinations noted; reality testing appeared intact.

Attention and Concentration:

REDACTED displayed varied attention and concentration throughout today's evaluation.

Intelligence and Memory:

REDACTED is reported to be diagnosed with intellectual disabilities. This appears to be accurate although formal testing was not completed. It also appeared that REDACTED exhibited adequate memory skills throughout today's evaluation.

Judgment and Insight:

REDACTED appears to have varied and moderate judgment and insight at this time.

Integration of Data Received from Structured Tools (diagnostic instruments; also include the results/data from the structured tool scores reported in the last evaluation):

No structured tools were available at the time of evaluation write up.

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Discussion with Client:

REDACTED was reserved and hesitant at first during today's evaluation. She appeared to be withdrawn when initially speaking with the evaluator. However, as the evaluation went on she was able to engage with evaluator during today's evaluation with prompting and encouragement from treatment team and Ms. REDACTED. After some time REDACTED was able to open up more and become more comfortable within the evaluation. She was able to respond to prompting and inquiring throughout the evaluation. Additionally, she was capable of responding to redirection and answer questions directed towards her. She was capable in providing feedback throughout today's evaluation and identified current likes. REDACTED also discussed her recent participation in the social skills group through SPIN and her like for it. REDACTED appeared as an accurate historian and displayed with varied eye contact throughout today's evaluation. Overall, it appears that REDACTED was able to make an adequate rapport with the evaluator during today's evaluation.

Biopsychosocial Formulation (based on collected information):

There were no genetic predispositions reported for REDACTED. There are no reported acute medical issues that may cause neurological impacts present at this time. REDACTED is diagnosed with Autism Spectrum Disorder with accompanying language and intellectual impairments which impacts her overall functioning. REDACTED exhibits speech articulation difficulties and social skill deficits which further exasperate her behaviors. In addition, REDACTED has a history of experiencing bullying by peers and recently reported an experience of being taken advantage of and allegedly exploited by a peer at school. REDACTED exhibits hesitation and difficulties within social interactions which further exuberate her impairments in interacting with same aged peers. This is further increased as a result of experienced traumas. In addition, REDACTED exhibits school refusal as a result of her experiences of bullying which may increase due to her recent traumatic experience at school. It appears that REDACTED struggles with and often misinterprets social cues and interactions which further impact her hesitation to engage with others, as well as, her symptoms across settings. Often times REDACTED's refusal appears to be triggered by difficulties with understanding directives or feeling like she is being forced to complete a directive without having a choice. Her history of social and school stressors exacerbate her behavioral symptoms, such as difficult social interactions with peers, inappropriate expression of emotions, and history of withdrawal/shutting down. Although REDACTED has some good defense mechanisms she struggles to implement these tools successfully and effectively at times. Overall, REDACTED's behavioral and psychological issues appear to be due to a combination of biological, psychosocial, social difficulties, trauma experiences, and psychological factors.

Rationale for Recommended Services:

BHRS services are medically necessary to decrease the frequency and intensity of behavioral difficulties within the home, community, and school environments.

Comprehensive Biopsychological Re-Evaluation (CBR): REDACTED- , REDACTED

Date of Evaluation: 02/22/2016

Date of Birth: 03/06/2000

Are Treatment Interventions consistent with the clinical practice guidelines or best practices for client's diagnosis?

Current treatment interventions are consistent with clinical practice guidelines and best practices given Marquette's current behavioral issues and diagnosis

Evaluator's concurrence with and recommended adjustments to Treatment Plan including Goals:

Evaluator is fully concurrent with treatment plan at this time and current treatment plan goals should continue to be focused on as a means to continue on working on reducing frequency of behaviors and consistency of progress on goals. In addition, goals related to recently experienced trauma and bullying should be included in order to fully address all of Marquette's needs.

DIAGNOSIS:

299.00 (F84.0) Autism spectrum disorder with accompanying language and intellectual impairments requiring intensive supports

309.9 (F43.9) Unspecified Trauma- and Stressor-Related Disorder

V62.3 (Z55.9) Academic or Educational Problem

Medical: asthma, sleep difficulties

Psychosocial: social skills delay and significant communication problems

Psychologist Recommendations for Service Delivery:

The authorization period being requested for the services listed below should span the following number of months: 12

Services Requested:

Given the current behavioral issues exhibited by REDACTED it is medically necessary for the following services:

1. It is recommended that BSC services be continued at a rate of 2 hours per week. The BSC will observe in the home, community, and school environments, and collect data about the frequency, intensity, duration, and precipitating conditions relevant to her problem behaviors and difficulties with withdrawal/shutting down, compliance, stress management, judgment, and emotional control. The BSC will formulate a comprehensive updated treatment plan to therapeutically address these issues.
2. It is recommended that MT services be increased to a rate of 2 hours per week to assist with current traumatic incident experienced, history of bullying and school refusal, difficulty with frustration tolerance, difficulty with same aged peer interactions, difficulty of compliance with non-preferred tasks, and working on increasing Marquette's

confidence in speaking up for self. MT will discuss and progress with REDACTED difficulties with expression of emotions, social skills, coping, communication skills, stress management, judgment, trauma history, and emotional control. MT should hold family sessions as needed to address impact recent trauma experienced by REDACTED has impacted the family.

3. School based TSS worker should be increased to 32.5 hours a week (in order for TSS to be present for the full school day) as a result of recent safety interfering behaviors. REDACTED presents with safety interfering behaviors such as elopement and difficulty determining if someone is taking advantage of her that impacts her ability to engage in social and academic tasks. She requires support in redirecting, prompting and using calming techniques to teach REDACTED replacement behaviors. With compliance and responsiveness to reinforcers, it is recommended that progress is closely monitored with a gradual decrease in hours when progress is made to help her build independence in skills use. TSS will follow through with BSC treatment recommendations and techniques and interventions will be supervised by BSC. Progress should be monitored and based on data collected by the TSS regarding the frequency and intensity of behaviors within the school setting.
4. It is recommended that REDACTED continue with her current case management services.
5. The BSC will consult with school personnel as needed to track functioning in the school and community activities and to facilitate coordination of interventions between the home, community, and school environments.
6. The BSC and MT will work with Marquetta's caregivers to help them better understand the problems she is experiencing and to respond proactively to them. The BSC and MT will work with Marquetta's caregivers on helping them to respond supportively and adaptively to her problematic behaviors and current expression of emotions. Completing BHRS and planning aftercare should be routinely discussed.
7. It is recommended that REDACTED continues to attend the social skills program through SPIN NET. This program which focuses on building social skills necessary for REDACTED in developing positive peer relationships. This program would continue to give REDACTED a safe environment to practice learned social skills and expand her progress on goals directed to towards building healthy and reciprocal social interactions with same aged peers. Further, it would require focus and other mental control strategies to succeed; thus, she will be practicing these strategies during the length of the activity.

Comprehensive Biopsychological Re-Evaluation (CBR): REDACTED- ,
REDACTED Date of Evaluation: 02/22/2016
Date of Birth: 03/06/2000

8. Ms. REDACTED should follow through with legal system to address recent traumatic experience REDACTED had at school.
9. Ms. REDACTED was referred to Parents Involved Network (PIN) during today's evaluation to get connected with an educational advocate and lawyer to assist in identifying if current school placement is adequate for REDACTED and assist in resolution regarding current traumas experienced by REDACTED within the school setting.
10. REDACTED will comply with all therapeutic interventions and display openness to and engagement in the therapeutic process.
11. The treatment team should meet monthly to share information, assess progress, and make necessary adjustments to the Treatment Plan (documented as required), in order to maximize progress. As the treatment team monitors progress, consideration should be given to any need for either a higher or lower level of care as necessary.
12. Re-evaluate in 12 months to determine medical necessity for the continuation of BHRS services for REDACTED.

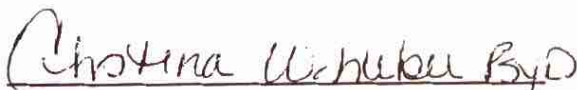
Discharge/Titration Plan:

REDACTED can be transferred to a lower of care when she can consistently demonstrate progress for a consecutive 4 months on the following goals: engage in appropriate and healthy reciprocal interactions with same aged peers, utilize healthy coping skills when frustrated, utilize appropriate and healthy forms of expression, and process experience of traumas and current impact on self.

DOCUMENTATION OF TIME SPENT

<u>Activity</u>	<u>Date</u>	<u>Time Spent/Units</u>
Face to Face	02/22/2016	11 am-12 pm/2 units
Non Face to Face	02/25/2016	10 am -12 pm/4 units
Total Billable Time Spent		6 units

Evaluation Completed by:



Christina Wohleber, PsyD
Licensed Psychologist
License # PS017625

2/25/16
Date

ATTACHMENT B

Excerpt (page 4) from
Confidential Settlement
Agreement signed 9/27/2016

to any compensatory education provider to supply the information directly to the District representatives.

D. Releasees will pay independent providers that have been pre-approved as District contractors within sixty (60) days of the receipt of appropriate documentation as set forth above. Bills and or invoices shall be provided to: Priscilla Johnson, Office of Specialized Instructional Services; Attn: Compensatory Education, 440 N. Broad Street, 2nd Floor; Portal "B," Philadelphia, Pa. 19130-4015; compedu@philasd.org; Phone 215-400-6722; Fax: 215-400-4175. Parent recognizes that in order to obtain reimbursement for compensatory education expenses, parent must submit documentation substantiating services provided, payments made, and an executed W-9 for non pre-approved vendors.

E. Any compensatory education hours remaining as of March 6, 2023 shall be forfeited.

F. The School District of Philadelphia has agreed to refer the student to a Pennsylvania day "approved private school" as the phrase is used by the Pennsylvania Department of Education. School District of Philadelphia further agrees, absent parent request for a less restrictive setting, to continue APS funding until the student reaches age (21). No APS placement shall continue beyond the last day of the school calendar in June 2021.

5. ATTORNEYS FEES AND COSTS: The District will, within sixty (60) days of receiving detailed invoice and fully executed Settlement Agreement, pay reasonable attorney fees and costs to Joseph Montgomery, Esquire, for time expended and costs on this matter to the date of this Agreement. The Agreement to pay attorney fees and costs is not an admission that Parent is a "prevailing party" pursuant to IDEA, 20 U.S.C. §1415(i)(3)(B).