

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

A.B., a minor student with disabilities, by and with and through his parent/guardian/next friend Cynthia B.L.,

Plaintiffs,

V.

SANTA ROSA
INDEPENDENT SCHOOL DISTRICT

Defendant.

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Case No. _____

PLAINTIFFS' ORIGINAL COMPLAINT

Comes now, Cynthia B.L., parent /guardian /next friend of A.B., a minor student eligible for special education, (“Plaintiffs” or “Cynthia B.L.” “A.B.”) and brings this Original Complaint and Appeal against Santa Rosa Independent School District (“Defendant Santa Rosa Independent School District” or “SRISD”) and states as follows:

1. INTRODUCTION.

1.0 A.B. is 16-year-old boy who has epilepsy and other disabilities. Defendant SRISD has an affirmative legal obligation to provide A.B. a free appropriate public education consistent with the Individuals with Disabilities Education Act, (IDEA), 20 U.S.C. §§1400 et seq., its regulations and Texas law. Plaintiffs allege that Defendant SRISD has egregiously violated A.B.'s rights and the rights of his parent, Cynthia B.L. As required, Plaintiffs sought relief from a state special education hearing officer (SEHO) who denied any relief. The SEHO decision is TEA Docket No. 014-SE-0918; *Adrian B., BNF Cynthia B.L. v. Santa Rosa Independent School District*

issued March 22, 2019 and referenced herein as SEHO decision. Plaintiffs now bring this appeal to request reversal of the legally erroneous, arbitrary and capricious decision.

2. JURISDICTION AND VENUE.

2.0 This case is a claim under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400 et. seq. (2004), 34 C.F.R. Chapter 300 and Texas special education law at 19 Tex. Admin. Code Chapter 89. This Court has jurisdiction because Plaintiffs exhausted any administrative remedies through the SEHO decision known as TEA Docket No. 014-SE-0918; *Adrian B., BNF Cynthia B.L. v. Santa Rosa Independent School District* issued March 22, 2019.

2.1 Plaintiffs are aggrieved by the decision and this Court has subject-matter jurisdiction over the federal law claims pursuant to 28 U.S.C. § 1331 and 20 U.S.C. § 1400 et. seq.

2.2 Venue in this Court is proper under 28 U.S.C. § 1391(b).

3. THE PARTIES.

3.0 At all times material to this action, Plaintiffs lived in Defendant Santa Rosa Independent School District. Cynthia B.L. is his legal guardian¹. The student’s initials, A.B., are used to protect the minor’s privacy consistent with Federal Rule of Civil Procedure Rule 5. The full identity of the Plaintiffs is known to Defendant SRISD but can be fully revealed to the Court at a later date, if necessary.

3.1 Defendant SRISD is a public school district in the State of Texas and is a local educational agency under the IDEA. Defendant SRISD receives IDEA federal funding from the State of Texas. Defendant SRISD is obligated to fully comply with the IDEA, all of its related federal regulations, Texas Education Code Chapter 29 and commissioner rules.

¹ Cynthia B.L. is A.B.’s maternal grandmother.

4. PROCEDURAL HISTORY.

4.0 When A.B. was in eighth grade (2016-2017) Defendant SRISD assigned A.B. to a disciplinary placement after an alleged incident at school occurring February 28, 2017. Plaintiff Cynthia B.L. did not know that she could request a special education “expedited” due process hearing to contest this action and placement. 20 U.S.C. §1415(k). Instead, she believed her only recourse was an internal grievance procedure with the Defendant SRISD school board, known as FNG Level I, Level II and Level III grievances. This grievance approach was unsuccessful. Had Plaintiff Cynthia B.L. known that she could challenge through a special education proceeding Defendant SRISD’s violation of the IDEA when it placed A.B. in a disciplinary placement in February of 2017, she would have challenged that disciplinary placement through the IDEA as well as the appropriateness of A.B.’s education back to February of 2016 (A.B.’s seventh grade year).

4.1 After obtaining the help of a non-lawyer advocate, Plaintiff Cynthia B.L. requested a special education hearing on February 20, 2018. Based on the Texas statute of limitations, Plaintiff Cynthia B.L. was entitled to litigate claims from at least February 20, 2017 forward which would allow her to litigate and contest the February 28, 2017 disciplinary action and a portion of A.B.’s eighth grade year. Before asking for that hearing, Plaintiff Cynthia B.L. did not know that she could request a hearing about Defendant SRISD’s violations of the IDEA regarding A.B.’s educational program. Lacking counsel, the first due process hearing was dismissed *without prejudice* on April 6, 2018 preserving Plaintiff Cynthia B.L.’s right to continue to contest the February 2017 disciplinary action.

4.2 On September 14, 2018, after obtaining counsel, Plaintiff Cynthia B.L. requested a special education hearing. This hearing request specifically referenced the first hearing request

that had been dismissed without prejudice in February 2018. Given the previous dismissal without prejudice, Plaintiff asserted violations of the IDEA began to accrue in February of 2016 (seventh grade) which was during the 2015-2016 school year.

4.3 Defendant SRISD raised an affirmative defense of a statute of limitations but did not prove up the defense. The SEHO incorrectly found that the time at issue was the 2017-2018 school year to present.

4.4 The SEHO's March 22, 2019 decision did not fully decide the facts or address alleged violations of law occurring during seventh grade (2015-2016) or eighth grade (2016-2017). The SEHO ignored the prior dismissal without prejudice that allowed the parent to address claims prior to that, including the unlawful disciplinary action in February 2017.

5. WHO IS A.B.?

5.0 A.B. lives with Plaintiff Cynthia B.L. and his three siblings.

5.1 A.B. has average intelligence. Still, he has struggled in school.

5.2 When A.B. was in second grade, as a result of a swimming pool accident, he became unconscious and sustained a concussion . He has never been assessed for a Traumatic Brain Injury (TBI).

5.3 A.B. was identified with epilepsy when he was about 12 years old. It is unknown if he experienced epilepsy seizures prior to that time. A.B. experiences both grand mal seizures and peti mal seizures, even though he regularly takes seizure medication. When he experiences grand mal seizures, he drops to the ground, is sweaty, sometimes bites his tongue or lip with bleeding from the mouth, shakes uncontrollably, becomes very stiff, is like dead weight and very heavy to carry. He never sees or hears during a seizure. His eyes roll and he vomits. A.B. gets headaches before seizures and headaches up to 2 days after seizures. He is "in a daze" when he comes out of

a seizure. He is very tired and sleeps for hours after a seizure to regain his strength. Sometimes he experiences a headache prior to the seizure. Although there is a belated reference to epilepsy in his IEP, his IEPs did not reference his unique needs as a result of epilepsy or provide him services, including but not limited to self-advocacy skill training about epilepsy.

5.4 A.B. also experiences a neurodevelopmental disorder as a result of in utero drug use by his biological parent and early childhood abuse. Prenatal exposure to drugs in utero can have detrimental short and long-term effects in cognition and behavior. Children exposed to cocaine in utero can have difficulties with emotional regulation and, attention and executive functioning difficulties. Prenatal exposure to alcohol can also affect a child's behavioral and emotional regulation. These problems can persist even if the child is placed in enriched environments. Even if A.B. had not experienced child abuse, the prenatal exposure to substances is enough to cause the degree of difficulties that A.B. experiences.

5.5 A.B. has repeatedly failed hearing screenings conducted by Defendant SRISD. Defendant SRISD told his parent it was her responsibility to obtain an audiological examination. Defendant SRISD staff testified it was not their job. At the hearing, Plaintiff Cynthia B.L. testified that the most recent hearing report indicated A.B. appears to have a hearing loss.

5.6 A.B. has, by history, been identified with ADHD , Combined Type. The diagnosis of ADHD was made before A.B.'s epilepsy diagnosis and without the knowledge of the head injury in second grade.

5.7 A.B. has had behavioral problems throughout his time in Defendant SRISD and the Defendant SRISD has not designed a behavioral program to meet his unique needs, including needs emanating from his neurodevelopmental disorder, epilepsy and other disabilities.

5.8 A.B. is a student who has never been provided an appropriate transition program designed to meet his needs to become an independent adult except for a brief period of time when he was attending a part-time program at South Texas. Because of behavioral problems, he was not allowed to return.

6. STATEMENT OF CRITICAL FACTS.

FIFTH GRADE: (2013-2014)

6.0 When A.B. enrolled in Defendant SRISD in the fifth grade, his Individual Education Program (IEP) from his prior school district indicated placement in a small classroom.

6.1 Defendant SRISD did not find A.B. eligible as a student with an OHI as a result of his epilepsy/seizures nor did it conduct an audiological examination despite A.B. failing hearing screenings since enrolling in SRISD. Plaintiff Cynthia B.L. was never told she could request A.B. be eligible for special education services as a student with OHI as a result of the epilepsy/seizures or request an audiological examination

6.2 The Defendant SRISD incorrectly identified A.B. as having an emotional disturbance from fifth grade through and until May of 2018 (9th grade) and failed to properly identify his epilepsy, neurodevelopmental disorder and possible hearing loss.

SIXTH GRADE: (2014-2015)

6.3 During the 2014-2015 school year, A.B. attended sixth grade in the Defendant SRISD. Defendant SRISD continued to identify A.B. as meeting criteria for Emotional Disturbance, including inappropriate types of behavior, ADHD, and depression. He was placed in a general education classroom. By February 2015, A.B. had at least 15 discipline referrals. Although Defendant SRISD asserted that A.B. has had a Behavior Intervention Plan (BIP) since fifth grade, there was no evidence a functional behavioral assessment (FBA) had been conducted.

If a Behavior Intervention Plan existed, it was insufficient to address A.B.'s behavior during sixth grade.

SEVENTH GRADE: (2015-2016)

6.4. During the 2015-16 school year, A.B. had at least 7 disciplinary referrals. He was placed in a general education classroom. Again, there is no evidence a functional behavioral assessment was completed and, if a Behavior Intervention Plan existed, it was insufficient to address A.B.'s behavior during seventh grade.

EIGHTH GRADE: (2016-2017)

6.5 During the 2016-2017 school year, A.B. had 5 disciplinary referrals. On February 28, 2017, A.B. received a disciplinary referral for an alleged incident. Defendant SRISD administration placed him for 12 days in the Disciplinary Alternative Educational Program (DAEP). Plaintiff Cynthia B.L. did not know she could challenge this placement through a manifestation determination review or an expedited due process hearing. After A.B. completed his time in the DAEP, the Defendant SRISD conducted a Functional Behavioral Assessment (FBA). The FBA identified three behaviors: non-compliance, task refusal and elopement. The function of the behaviors was deemed to escape or avoidance. It does not appear that an appropriate Behavior Intervention Plan was completed in eighth grade.

6.6. Also, during eighth grade, Plaintiff Cynthia B.L. was part of a group of parents who challenged the Defendant SRISD's insufficient special education programming for children.

6.7 Unaware that she had any rights pursuant to the IDEA, Plaintiff Cynthia B.L. unsuccessfully challenged the DAEP placement through local school board FNG complaint/grievance procedures (Level I, Level II, Level III).

NINTH GRADE (2017-2018): Brass Knuckles Allegation and DAEP Placement

6.8 During the 2017-2018 school year, A.B. attended ninth grade in Defendant SRISD. SRISD staff determined A.B.'s reading level was two years below grade level (i.e. only seventh grade). An IEP was created on or about September 18, 2017 to address his reading deficit. The IEP was based on present levels of performance that were vague and not detailed. The IEP goals were restatements of the Texas TEKs. A.B.'s placement continued to be in a regular education setting, with an insufficient amount of direct special education instruction and related services. A counseling goal was added to his IEP to improve coping skills, self-calming, learning good and poor behavioral choices and managing frustration levels in school.

6.9 Although progress reports were to be provided every 6 weeks, Plaintiff Cynthia B.L. contests she received such progress reports on a regular basis.

6.10 On September 21, 2017, A.B. began attending a partial day program at South Texas ISD for vocational training in the automotive program and returned to Defendant SRISD high school for the remainder of his school day. He did well in the program and South Texas ISD reported no behavioral problems.

6.11 During his ninth-grade year, A.B. received 5 disciplinary referrals, and one day of ISS, all occurring at SRISD High School. On October 25, 2017, Defendant SRISD alleged A.B. possessed brass knuckles and possessed drug paraphernalia on school grounds. Defendant SRISD noticed an expulsion hearing and A.B. was referred to Juvenile Justice Alternative Educational Program (JJAEP) for 180 days with a 90-day review.

6.12 On October 31, 2017, A.B. began attending Defendant SRISD's Disciplinary Alternative Education Program (DAEP) even though Plaintiff Cynthia B.L. never signed consent so he could attend the program. The Defendant SRISD based consent for A.B.'s enrollment in the

Disciplinary Alternative Education Program (DEAP) on a wrongfully obtained signature from A.B.'s biological mother who has no legal status in regard to A.B.

6.13 After A.B. was placed in the Disciplinary Alternative Education Program (DAEP), on November 6, 2017, Defendant SRISD held a Manifestation Determination Review (MDR). Plaintiff Cynthia B.L. disagreed with the placement and argued that any alleged misbehavior engaged in was related to his disability. The MDR committee "sentenced" A.B. to 3 days of out of school suspension and 6 days of DAEP. Since he would not have access to content mastery (a type of special education and specially designed instruction), the MDR committee removed it from A.B.'s IEP.

6.14 At a December 2017 meeting, Plaintiff Cynthia B.L. requested an Independent Educational Evaluation (IEE). The Defendant SRISD refused her request and demanded to conduct its own evaluation first. Dr. Simo (Simo Report) completed the SRISD evaluation on May 31, 2018, nearly two months after it was due and as the school year was ending.

6.15 After the IEE was requested but before it was completed, and with the help of a non-lawyer advocate, Plaintiff Cynthia B.L. requested a special education hearing on February 20, 2018. The parties unsuccessfully attempted mediation. Defendant SRISD had counsel on the case; Plaintiff Cynthia B.L. did not. The non-lawyer advocate filed for a dismissal without prejudice to sustain the ability of the family to return to address the claims that occurred up to one-year prior to February 20, 2018 (i.e. February 20, 2017, and the February 28, 2017 disciplinary placement). The dismissal without prejudice was granted on April 3, 2018.

6.16 At a May 31, 2018 ARD meeting, the Defendant SRISD changed A.B.'s eligibility from OHI-ED to OHI as a result of ADD/ADHD. When the Simo Report was discussed at the ARD meeting, Plaintiff Cynthia B.L. was not provided a written copy of the lengthy report. Staff

claimed that they read the entire lengthy report out loud at the ARD meeting. Dr. Simo did not attend the ARD meeting nor did she attend or testify in the administrative hearing. Plaintiff Cynthia B.L. disagreed that the report was read aloud word for word and disagreed that the report was orally explained to her. At this ARD meeting, she requested an IEE again. The Defendant SRISD agreed to pay for same. But, Plaintiff Cynthia B.L. could not locate an independent evaluator, and she was never able to access an IEE.

6.17 Meanwhile, A.B. was required to attend the Defendant SRISD's Disciplinary Alternative Education Program (DAEP) from October 31, 2017 for the remainder of the 2017-2018 school year. This was contrary to the ARD decision that "sentenced" him for just 6 days. Plaintiffs allege it was also contrary to the IDEA and Texas law.

6.18 At hearing, the Defendant SRISD produced some IEP progress reports for the school year and that had not been provided to the parent in a timely manner as required by the IEP and the IDEA.

6.19 As of today's date, June 17, 2019 A.B. has never been charged with any crime for the brass knuckles offense allegedly occurring October 25, 2017.

6.20 On May 30, 2019, Governor Abbott signed HB 446 which provides that carrying brass knuckles is no longer illegal in the State of Texas.

6.21 On June 14, 2019, Governor Abbott signed HB 3703 permitting the use of prescribed medical marijuana for individuals with epilepsy.

TENTH GRADE: (2018-2019)

6.22 During 2018-2019, A.B. was not allowed to attend Defendant SRISD High School, however, until September 12, 2018 because he was still assigned to the DAEP.

6.23 A.B. was never allowed to return to his vocational program at South Texas ISD during the entire 2018-2019 school year.

6.24 Defendant SRISD told the SEHO that A.B. was doing well in all of his classes, and his IEP was sufficient.

6.25 On the last day of the hearing, January 25, 2018, Defendant SRISD reported A.B. to juvenile authorities for an alleged assault. A.B. has plead not guilty.

6.26 After the hearing was concluded and the decision issued March 22, 2019, Defendant SRISD has apparently determined that A.B. will fail for the school year (allegedly due to absences for which he had medical excuses). That is, if he returned for 2019-2020, he would need to repeat 10th grade.

6.27 On May 20, 2019, Defendant SRISD referred A.B. to juvenile court again, claiming he invaded privacy when he left his cell phone on video in the nurse's bathroom.

6.28 Plaintiff Cynthia B.L. has notified the Defendant SRISD that she will be home-schooling A.B. for the upcoming 2019-2020 school year; she may also have him attend a different school if one can be located that would be appropriate for him.

6.29 Defendant SRISD has referred A.B. to juvenile court three times but has never reduced his behavioral problems. Defendant SRISD has never offered A.B. any meaningful program of Extended School Year (ESY) for the many days he has spent in disciplinary placements or has been unable to attend due to illness.

7. THE SEHO'S ERRORS AND OMISSIONS.

7.0 The SEHO White's Decision is inconsistent with the mountains of factual evidence presented to her, and contrary to the IDEA statute and federal regulations and in some cases, Texas law.

7.1 Expert Determination Error. SEHO White predetermined her decision for the Defendant SRISD by announcing during the hearing that all school witnesses would be deemed experts. None of the school witnesses were identified as experts prior to the hearing. Plaintiff Cynthia B.L. filed a motion with her post-hearing brief which SEHO White summarily denied. Because Plaintiffs were not informed prior to the hearing that school witnesses were deemed experts, Plaintiffs rights pursuant to the IDEA 'five-day' rule, 34 C.F.R. 300.512 were also violated.

7.2 Statute of Limitations Error. SEHO White erroneously placed the burden of a statute of limitations affirmative defense on the Plaintiffs, rather than the Defendant SRISD. And, SEHO White also incorrectly determined the time frame of the case.

7.3 Failure to Apply Preponderance of the Evidence Standard. SEHO White wrongly required the Plaintiffs to prove their case by beyond a preponderance of the evidence standard, contrary to law.

7.4 Erroneous Conclusion on Child Find. SEHO White wrongly determined that the Defendant SRISD met its affirmative, ongoing duty to identify all of A.B.'s suspected disabilities, including his epilepsy/seizures, neurodevelopmental disorder, and suspected hearing loss. SEHO White even incorrectly claimed that A.B.'s parent had the duty to obtain an audiological and medical information about the epilepsy/seizures.

7.5 Erroneous Factual Findings and Conclusion on Individualization of IEP. SEHO White erroneously determined that Defendant SRISD created IEPs for A.B. that were individualized, based on objective present levels of performance, and designed to meet A.B.'s unique needs, including needs from epilepsy, a neurodevelopmental disorder, and suspected

hearing loss. She justified the Defendant SRISD's wrongful placement of A.B. into its disciplinary alternative education program which did not meet his unique needs.

7.6 Erroneous Factual Findings and Conclusion on whether A.B. Received Gym and was in the Least Restrictive Environment. SEHO White ignored the fact that A.B. did not receive appropriate physical education services while in the Disciplinary Alternative Education Program (DAEP). A.B. was medically precluded from weight lifting and contact sports. But the only offering of physical education while A.B. attended the Disciplinary Alternative Education Program (DAEP) was weight lifting. A.B. would go sit in Mr. Guillen's class and didn't go to gym because that class was lifting weights. He received a ½ credit for gym without having gym during first semester for 2018-2019. He received no credits for Athletics or PE for the second semester.

7.7 Erroneous Factual Findings and Conclusion on Whether A.B. Received a Transition Program as Required by the IDEA and Texas law. Central to A.B.'s educational program should have been his continuation of vocational services at South Texas District. SEHO White ignored the obvious: Defendant SRISD was not able to improve his behaviors at SRISD, was punishing A.B. and as a result he was precluded from receiving actual vocational services. Nor did Defendant SRISD substitute a program of vocational services; instead, the only "transition" program was doing some worksheets from South Texas' vocational program without attending it.

7.8 Erroneous Factual Findings and Conclusions Concerning Meaningful Educational Benefit by Wrongful Reliance on Grades. SEHO White incorrectly relied on inflated, subjective grades to determine that A.B. was receiving meaningful benefit during the 2017-2018 and 2018-2019 school year. SEHO White also ignored undisputed factual evidence that Plaintiff Cynthia B.L. did not receive IEP goal progress reports as required and had to beg to ensure she had A.B.'s

grades, especially while he was in the Disciplinary Alternative Education Program (DAEP) and minimized the Defendant SRISD's violations.

7.9 Erroneous Factual Findings. SEHO White made extensive erroneous findings of fact designed to support her predetermined legal conclusion, rather than correctly reporting all of the facts, especially those from documentary evidence.

7.10 Erroneous Legal Findings. SEHO White made extensive erroneous legal findings, including determining that A.B. was not deprived of a free appropriate public education, that Defendant SRISD complied with all procedures and did not significantly impede parental participation all contrary to law and the record in this case.

7.11 Erroneous Disregard of Expert Testimony. SEHO White erroneously discounted critical testimony of Dr. Jennifer Morrison and Dr. Marvillesse Rodriguez, both of whom are expert neuropsychologists and who conducted a thorough evaluation of A.B. and his needs. Unlike the purported school district staff who were deemed experts, both Dr. Morrison and Dr. Rodriguez were established as experts at hearing, provided curriculum vitae and provided a combined written report.

7.12 SEHO's Decision Does not Meet Standards of 20 U.S.C. § 1415(i)(3)(A).
SEHO White's decision does not meet the standards for a thorough and careful decision and is not consistent with 20 U.S.C. § 1415, including 34 C.F.R. § 300.511(c)(ii)(iii) and (iv).

8. PLAINTIFFS WERE DENIED A HEARING CONSISTENT WITH THE IDEA REQUIREMENTS.

8.0 The SEHO decision contained many errors of fact and erroneous conclusions of law.

8.1 SEHO White erred in ruling that school employees were "experts" when they clearly were not experts as defined under the Texas Rules of Evidence or the Federal Rules of Evidence. Further, even if they could be designated experts, Defendant SRISD did not notice any of them as

experts. Despite this, all school employees were credited as experts. Thus, the SEHO countenanced, encouraged, and blatantly approved a violation of the IDEA's five-day rule under 34 C.F.R. §300.512.

8.2 Because SEHO's decision was so faulty, Plaintiffs were denied their right to the special education hearing to which they are entitled under the IDEA. 20 U.S.C. § 1415; and see, 34 C.F.R. §§ 300.507 – 300.513.

9. FIRST CAUSE OF ACTION- IDEA AND TEXAS LAW.

9.0 Plaintiffs re-allege paragraphs 1.0 through 8.2 above and incorporate them by reference in support of their claims pursuant to the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1400 et seq., and its related regulations at 34 Code of Federal Regulations Chapter 300, Texas Educ. Code Chapter 29, and 19 Tex. Admin. Code Chapter 89 which is to ensure implementation of the IDEA in Texas.

9.1 Plaintiffs seek reversal of the SEHO's Decision in all respects where it is contrary to fact and law. Plaintiffs request that the Court find that Defendant SRISD denied or impeded Plaintiff A.B.'s right to a free appropriate public education designed to meet his unique needs resulting in meaningful benefit, significantly infringed on his parent's involvement, and denied or impeded his right to a fair hearing. They request that the Court provide him all appropriate relief, including the relief that the SEHO wrongly denied.

9.2 Plaintiffs urge the Court to find that the IDEA prevents any hearing officer from finding that Plaintiff Cynthia B.L. is to be blamed or held responsible for the Defendant SRISD's failure to timely and fully identify all of A.B.'s disabilities as required by its Child Find duty. 20 U.S.C. §1412. Further, Plaintiffs urge the Court to specifically find that Plaintiff Cynthia B.L. has no "duty" whatsoever to obtain private medical evaluations for: 1) epilepsy; 2)

neurodevelopmental disorder; 3) hearing loss. Finally, the Court should find that Defendant SRISD significantly infringed upon Plaintiff Cynthia B.L.'s parent rights.

9.2 If the SEHO's Decision is reversed in whole or in part, Plaintiffs will be a prevailing party and as such entitled to recover reasonable and necessary attorney fees and costs incurred in the administrative proceeding and in this lawsuit for which they now sue Defendant SRISD. If Plaintiffs prevail in this appeal, they are prevailing parties to recover both prejudgment interest and post-judgment interest for which they now sue Defendant SRISD.

10. PRAYER FOR RELIEF

10. Plaintiffs respectfully request that this Court enter judgment against Defendant SRISD, and grant the following relief:

a. Reverse those portions of SEHO's White decision that are contrary to fact, contrary to law or incorrectly left undecided, even without controverting evidence, where the SEHO applied the wrong standard, violated the five day rule, incorrectly ruled and wrongly credited school witnesses as experts contrary to the Texas Rules of Evidence or the Federal Rules of Evidence and made numerous other factual and legal errors as explained in this complaint;

b. A finding that the SEHO incorrectly applied a standard other than a preponderance of the evidence standard.

c. Order that A.B. was denied a free appropriate public education designed to meet his unique needs, (including needs as a result of a failure to identify and recognize the unique needs of a student with a neurodevelopmental disorder, epilepsy, and a mild hearing loss), including continued behavioral problems that were not reduced/resolved) and thus, A.B. was denied meaningful

benefit. And, order that A.B. was not provided physical education and a transition plan and Extended School Year services.

d. Order that Plaintiff Cynthia B.L.'s separate independent parent rights were violated as a matter of law, and her right to meaningfully participate in the IEP process and the due process hearing process were significantly infringed as a matter of law and that such infringement impeded, delayed or denied her rights,

e. Order that A.B. be provided compensatory education for the relevant time frame forward to the date of any decision by this Court;

f. Order that Defendant SRISD have its school board members and all special education staff trained yearly on all aspects of the IDEA that it violated herein;

g. After reversal of the hearing decision, declare Plaintiffs the prevailing party in the litigation, and allow for submission of Plaintiffs reasonable attorneys' fees and related costs as permitted by law, and incurred in the administrative proceedings, award additional fees and costs incurred in pursuing the current action; and award Plaintiff's prejudgment and post-judgment interest on any and all awards of fees and costs; and

h. Such other and further relief to which Plaintiffs are entitled.

Respectfully submitted this 17th day of June 2019,

s/Sonja D. Kerr
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