

1 MR. RATNER: I thought I had, but I would be  
2 happy to.

3 THE HEARING OFFICER: Maybe you need a greater  
4 foundation. Sure.

5 Sustained.

6 MR. RATNER: Oh, well, her objection was to me  
7 using this document. So if it's sustained, I'm  
8 going to have to move on.

9 THE HEARING OFFICER: I'm sorry. I meant,  
10 yeah, go ahead and give her more foundation because  
11 I'm confused about it, too.

12 BY MR. RATNER:

13 Q Okay. Let me know when you've read the  
14 sentence under 3. Just read it to yourself.

15 A Okay.

16 Q Okay. I read that -- and I'm not trying  
17 to -- what does that -- how do you interpret what's  
18 written there? What does that sentence mean?

19 MS. OWENS: I am going to object because she  
20 is not the author of the document. So then to  
21 require that this witness testify about what a  
22 document that she didn't create means is an  
23 inappropriate question for the witness.

24 THE HEARING OFFICER: The only thing is she is  
25 an expert witness, so technically she's qualified

1 to read this document if a proper foundation is  
2 laid to -- and if she's able to connect this  
3 document to something that you are -- want her to  
4 explain, that would be fine.

5 BY MR. RATNER:

6 Q Okay. Do you see a reference on here to the  
7 WPM goal not being continued on the new IEP?

8 A Yes.

9 Q Okay. And WPM stands for words per minute,  
10 correct?

11 A Correct.

12 Q And on the previous IEP, both the 2019 IEP  
13 and the April 2020 IEP, April 20 of 2020 IEP, that was  
14 proposed without Parents attending the meeting, there  
15 was a words per minute goal; is that correct?

16 MS. OWENS: I'm going to object. That was a  
17 compound question.

18 THE HEARING OFFICER: May we just stop for  
19 just a second. My -- I think the witness's and  
20 counsel's problem, as I'm understanding, that there  
21 is a problem perhaps with the questioning because  
22 you're asking so many questions that are contained  
23 in one question or you're asking for a response  
24 from many different questions. It's just hard to  
25 follow that.

1 MR. RATNER: I really apologize.

2 THE HEARING OFFICER: No, no, no, you don't  
3 need to apologize. Just from now on, it might be  
4 more helpful if you can confine each question to  
5 one response and then the next question and that  
6 sort of thing. It's probably just your -- the way  
7 you ask questions.

8 MR. RATNER: Well, no, actually, usually when  
9 I don't feel so rushed because everyone keeps  
10 telling me how much time I'm taking, that I'm  
11 trying to get through this --

12 THE HEARING OFFICER: Well, you told me  
13 originally that you wanted five days. So I wrote  
14 down five days, and then I put it in the context of  
15 the two-year period. So that's where I'm coming  
16 from is to try to get this done. But if we keep  
17 arguing about what the questions are and the  
18 responses and all of that -- I just think it would  
19 make it maybe for you and for us to follow it if --

20 MR. RATNER: I agree completely. And that's  
21 again one of my concerns is we have five days. I'm  
22 very cognizant of who I want to call and when I  
23 want to call them. You saw Mr. Lawson, I don't  
24 think I took more than 15 minutes with him.

25 THE HEARING OFFICER: I don't recall, but I

1 don't think it was any great length of time, no.

2 MR. RATNER: Right. So what I would prefer is  
3 we use the five days how we want to use the five  
4 days.

5 THE HEARING OFFICER: If you understand -- if  
6 you understand that at the end of it, the five days  
7 are done.

8 MR. RATNER: I've always understood that.

9 THE HEARING OFFICER: I just want to remind  
10 you of that.

11 MR. RATNER: Absolutely.

12 THE HEARING OFFICER: They get their three  
13 days after that.

14 MR. RATNER: Of course they do. But when I'm  
15 being told I only get 30 minutes and how much  
16 longer is it going to be, it causes me to try to  
17 rush my questions.

18 THE HEARING OFFICER: That's why you're  
19 compounding them so much?

20 MR. RATNER: Yes.

21 THE HEARING OFFICER: I understand.

22 MS. OWENS: Ms. Freeman, of course, there's a  
23 witness schedule, and to the extent that Mr. Ratner  
24 is calling School Board witnesses, we need to know  
25 when they are scheduled to testify so that

1 appropriate coverage would be available for their  
2 testimony. That was well established before today.

3 MR. RATNER: That's right. And I cooperated  
4 with the School Board attorneys -- on this  
5 particular witness, my personal perception here is  
6 I've gotten to ask her about five questions  
7 uninterrupted, and I don't believe -- maybe it's my  
8 fault, but I don't think it should be counted  
9 against my time. I'm doing the best I can to  
10 comply with your directives to get -- every time we  
11 get a witness up here, it's "she's not the right  
12 witness, she's not the right witness." Somebody  
13 has to be the right witness to answer these  
14 questions. We think it's the special education  
15 coordinator of the school, and I'm trying to  
16 question her.

17 THE HEARING OFFICER: All right. Back to the  
18 schedule, originally you-all would not comply -- or  
19 you couldn't agree on a schedule, if I recall  
20 correctly, because I think there were complaints on  
21 their side about how they were so rushed.

22 Then I was looking at the schedule thinking  
23 five days is what you mean and that there were  
24 quite a few witnesses, and I was trying to  
25 basically compile all those witnesses and give you

1 enough time to do your opening and to argue  
2 different things. Obviously, if you take just a  
3 finite amount of time to do witnesses, sometimes  
4 that runs into a problem, too, because you just  
5 can't get it done.

6 So I think I've given you leeway on that time  
7 schedule, but I still think we need to basically  
8 adhere to the time schedule so we get through this.  
9 I think I would still say, let's not compound the  
10 questions. Let's -- you did since work out a list,  
11 didn't you?

12 MR. RATNER: Absolutely we did. But part of  
13 the cooperation -- again, maybe I'm naive, but part  
14 of the cooperation was -- I mean, we spent --

15 THE HEARING OFFICER: These are mostly joint  
16 witnesses.

17 MR. RATNER: Not only that, we spent a good 10  
18 minutes talking about how I didn't qualify her as  
19 an expert when they stipulate she's an expert. I  
20 thought this would be a little bit more cooperative  
21 so we could get you to hear what you want to hear.

22 MS. OWENS: Ms. Freeman, I would like to  
23 respond to that.

24 THE HEARING OFFICER: Please do. Go ahead.

25 MS. OWENS: Thank you. To the extent that

1           they're -- that Mr. Ratner is implying that somehow  
2           we are making a big deal out of things that aren't  
3           worthy of being made a big deal out of, I disagree.

4           This witness is not a school psychologist.  
5           There's been no testimony that she's an educational  
6           diagnostician. Therefore, questions that  
7           Mr. Ratner was directing this witness to answer  
8           about previous evaluation reports, although, she's  
9           an expert, that doesn't mean she's an expert in the  
10          area in which Mr. Ratner wanted her to provide  
11          testimony. No foundation was laid. And I don't  
12          think that it would have been appropriate for her  
13          to answer questions about previous evaluations.  
14          Although she's an expert witness in the area of  
15          special education, such as educational programming  
16          and planning for students with disabilities, that  
17          doesn't mean that she is an expert in the area --

18          THE HEARING OFFICER: Psychology and all the  
19          other things you mentioned.

20          MS. OWENS: That's correct.

21          Now he's asking this witness questions about a  
22          document that she didn't create. We're not talking  
23          about an IEP and what the IEP team determined or  
24          what the IEP team considered. We are asking her  
25          about this document prepared by someone who hasn't

1 even testified yet. That is the basis for the  
2 School Board's objection. It's a reasonable  
3 expectation that the person who is being asked the  
4 question actually has the foundation to provide a  
5 response.

6 THE HEARING OFFICER: So I was just thinking  
7 that this document seems to have caused a real  
8 problem because she -- although she can testify as  
9 an expert witness, she doesn't have any connection  
10 to it and is probably not familiar with it really.

11 MR. RATNER: Right. So again --

12 THE HEARING OFFICER: That's basically unfair.

13 MR. RATNER: Two things, if I could, that  
14 again maybe will help speed this up: Ms. Owens  
15 just said I asked a bunch of questions about the  
16 psychological reports and all that. I never got to  
17 that. I wasn't going to do that. And then she  
18 launched -- she, in my opinion, prematurely -- she  
19 wanted to preserve her objections. I get it. But  
20 I didn't ask those questions. Someone did testify  
21 about this document already, Ms. McCluskey, and I  
22 think it --

23 THE HEARING OFFICER: If you say she did. I  
24 mean, I don't recall.

25 MR. RATNER: Okay.

1 THE HEARING OFFICER: I would have to go back.

2 MR. RATNER: Sure. I understand. But  
3 regardless, I have one question about it. If she  
4 can't answer it, I will move on. But that's  
5 really -- that's really easy. Instead of every  
6 single time I try to ask a question, we have a big  
7 dustup.

8 THE HEARING OFFICER: An impediment, yes. All  
9 right. So I think where we are is sustaining her  
10 objection to asking this witness to go into great  
11 detail -- any detail really about this document  
12 because she's not familiar, and I think that's what  
13 she said, if I recall correctly.

14 MR. RATNER: May I ask a different question?  
15 It is not about this document.

16 THE HEARING OFFICER: All right. What is it?

17 MR. RATNER: It is, as an expert on IEPs, is  
18 it appropriate for a school to discontinue  
19 instruction on an IEP goal without the parents'  
20 permission?

21 THE HEARING OFFICER: Any objection to that  
22 question?

23 MS. OWENS: No objection to that question.

24 THE HEARING OFFICER: All right. Go ahead.

25 MR. RATNER: Could I have the court reporter

1 read it back just so there's no misstatement.

2

3 (Record read by the court reporter as  
4 follows:

5 "As an expert on IEPs, is it appropriate  
6 for a school to discontinue instruction on  
7 an IEP goal without the parents'  
8 permission?")

9

10 THE WITNESS: Are we speaking on the  
11 April 20th IEP?

12 MR. RATNER: I'm asking a general question.

13 MS. OWENS: I think that that has to be given  
14 context. Because we did have a school closure  
15 which has been testified to.

16 MR. RATNER: I mean, that's fine. The  
17 question stands and she can answer it and then  
18 she's absolutely free to give context.

19 THE HEARING OFFICER: Yeah, go --

20 BY MR. RATNER:

21 Q I'm trying to ask a "yes" or "no" question.  
22 Is it appropriate to do that?

23 A So you're proposing a draft copy --

24 Q Okay.

25 A -- so it's not changing in services because

1 it is a proposed draft at that point.

2 THE HEARING OFFICER: It's a proposed draft.

3 So it's not a formal document.

4 BY MR. RATNER:

5 Q Sure. So let me just go back to tab 3.

6 That's not a proposed draft, correct?

7 A Correct. Mom gave consent.

8 Q And the first goal description: REDACTED will  
9 read 80 words per minute at her instructional level  
10 with at least 90 percent accuracy on four out of five  
11 documented opportunities by April 23, 2020.

12 Is that an appropriate -- a goal for  
13 REDACTED REDACTED ?

14 A Yes.

15 Q Okay. And when you proposed in April of 2020  
16 an IEP and the Parents didn't consent to it, did this  
17 goal remain in effect?

18 A Yes.

19 Q Okay. And if the school team discontinued  
20 working on the words per minute goal without the  
21 Parents' consent, is that appropriate?

22 A Can I ask a clarifying question?

23 THE HEARING OFFICER: Yes.

24 THE WITNESS: So are you talking about in the  
25 period of the school -- in reference to the school

1 closure amendment?

2 MR. RATNER: That's when it says that they  
3 stopped working on it.

4 MS. OWENS: I mean, I don't think this witness  
5 has testified to that.

6 MR. RATNER: That's fine. We can move on.

7 THE HEARING OFFICER: Okay. Go ahead. So you  
8 are withdrawing the question?

9 MR. RATNER: No. I'd like to continue that  
10 because I think it -- this is -- I'm trying to make  
11 this clear.

12 Ms. McCluskey testified that she wrote this  
13 statement. I asked her about it. We explained  
14 that the WPM goal was not continued on the new IEP  
15 as direct instruction in that area frustrates REDACTED.  
16 That's on tab 11.

17 MS. OWENS: I think that Ms. McCluskey also  
18 made it clear that it was a draft IEP.

19 THE HEARING OFFICER: It's a draft IEP.

20 MR. RATNER: I'm so sorry. We just  
21 established that 3 is not a draft IEP and it  
22 remained in effect.

23 THE HEARING OFFICER: You just directed me to  
24 11.

25 MR. RATNER: Right. This is an implementation

1 log of the IEP that's in effect.

2 THE HEARING OFFICER: All right.

3 MS. OWENS: This document is entitled  
4 Chesterfield County Public Schools COVID-19  
5 Continuity of Learning Documentation Log. Schools  
6 were closed.

7 And so now mister -- it appears that  
8 Mr. Ratner is trying to extrapolate from this  
9 document that somehow there's an IEP implementation  
10 when schools were closed.

11 MR. RATNER: Yes. That's exactly right.

12 THE HEARING OFFICER: Okay.

13 MR. RATNER: The schools were closed.

14 THE HEARING OFFICER: Is there another  
15 question?

16 MR. RATNER: Yes, there is.

17 BY MR. RATNER:

18 Q Did you receive guidance as a special  
19 education -- is it fair to say administrator? I don't  
20 want to --

21 A Coordinator.

22 Q No. Okay. Special education coordinator at  
23 Old Hundred Elementary of guidance from the Virginia  
24 Department of Education that there had been no waivers  
25 of the student's federal rights and timelines under the

1 IDEA during school closures?

2 A I cannot recall the specifics.

3 Q Okay. That wasn't discussed by Chesterfield  
4 County Public Schools?

5 A We met but I cannot recall specific items on  
6 the agenda.

7 Q Do you recall an IEP meeting in November of  
8 2020, fall of fifth grade?

9 A We had one in the fall. I'm not sure of the  
10 actual date.

11 Q So let's keep going in order, tab 16 in the  
12 school book. Do you have that in front of you?

13 A I do.

14 Q Okay. This is a different meeting, I think?  
15 I was talking about November. This is dated August 25,  
16 2020, right?

17 A Correct.

18 Q Is there any encoding goal in this IEP?

19 A The word encoding is not in the goal. Again,  
20 it has the spelling in the short-term objective under  
21 writing.

22 Q And I'm sorry, I'll be happy to look at it,  
23 but is it the same short-term objective repeated from  
24 the last one?

25 A It is.

1 Q About using spellcheck and a checklist?

2 A Proofreading, yes.

3 Q Got it. Anything about doing a word study?

4 A No, the word study is not --

5 Q Whether the words "word study" are there, is  
6 there anything in this that would give REDACTED direct  
7 instruction on spelling?

8 A As part of the reading decoding piece and as  
9 part of the writing.

10 Q I'm sorry, I couldn't hear that.

11 A As part of the writing as well as the  
12 decoding piece.

13 Q Okay. Thank you. I'd like to ask you --  
14 thank you very much.

15 So going back to this question about James  
16 Lane -- sorry to skip around -- Parents Volume 3, which  
17 I think should be in front of you, tab 85, this is a  
18 memo to Division Superintendents from James Lane.

19 Do you know who James Lane is?

20 A I do.

21 Q Who is James Lane?

22 A The former -- well, he was superintendent at  
23 Chesterfield County and he was the state superintendent  
24 for the Department of Education.

25 Q And if this is directed to quote-unquote

1 division superintendents, who would have received that  
2 in Chesterfield County? Would it be Dr. Daugherty?

3 A Yes.

4 Q Was this ever communicated to you as the  
5 special education coordinator of Old Hundred Elementary  
6 School?

7 A I cannot recall specifically, but I'm sure  
8 Chesterfield County proposed an email and added this in  
9 for all faculty.

10 Q Do you see the underlined and italicized part  
11 at the bottom of the first page?

12 A Yes.

13 Q Okay. And it says, Additionally, divisions  
14 are expected to meet state and federal obligations to  
15 serve students with disabilities as the U.S. Department  
16 of Education has not issued any waivers for the  
17 Individuals with Disabilities Education Act.

18 Did I read that correctly?

19 A Yes.

20 Q How did Chesterfield County do that when  
21 schools were closed for REDACTED

22 A We did a --

23 MS. OWENS: I'm sorry, I'm not sure what this  
24 witness is being asked at this point. How did she  
25 do what when this memo is dated August 28, 2020,

1 and he's referring back to a time that predates the  
2 document? I'm not quite sure I understand the  
3 question.

4 THE HEARING OFFICER: I don't think I get the  
5 timing of that. Am I confused about that?

6 MR. RATNER: I'm so sorry. But if the  
7 Department of Education has not issued any waivers  
8 for the IDEA, then the IDEA remained in full effect  
9 in April.

10 THE HEARING OFFICER: Right. Which was  
11 affected by COVID.

12 MR. RATNER: Right.

13 THE HEARING OFFICER: And all the permutations  
14 of what happened during COVID, off and on and all  
15 the different governor's orders and the timing and  
16 all of that -- anyway, go ahead.

17 MS. OWENS: This document, though,  
18 Ms. Freeman --

19 THE HEARING OFFICER: I understand. It's  
20 backdated.

21 MS. OWENS: Well --

22 THE HEARING OFFICER: He's asking a question  
23 about prior to this --

24 MS. OWENS: He wants to --

25 THE HEARING OFFICER: -- superintendent memo.

1 MS. OWENS: I apologize.

2 THE HEARING OFFICER: Go ahead.

3 MS. OWENS: It appears that he wants the  
4 witness to explain how the School Division  
5 implemented a memorandum that predates the action,  
6 and that is not an appropriate question. That is  
7 not -- it's not appropriate to ask a witness how  
8 did you implement a document that existed four  
9 months after the time period in question.

10 THE HEARING OFFICER: So do you want to  
11 explain how you want -- why you want her to -- how  
12 in the world you expect her to explain something  
13 that --

14 MR. RATNER: Yes, I would like to.

15 THE HEARING OFFICER: Go ahead.

16 MR. RATNER: As I said earlier, right, this  
17 memo is stating a negative. The memo says there  
18 has been no changes to the IDEA.

19 THE HEARING OFFICER: I got that.

20 MR. RATNER: Right. So how did they comply  
21 with the IDEA when schools were closed?

22 THE HEARING OFFICER: As long as you don't  
23 refer back to that.

24 MR. RATNER: Sure.

25

1 BY MR. RATNER:

2 Q In the spring of 2020 after schools were  
3 closed, how did Chesterfield County Public Schools  
4 deliver services to REDACTED in compliance with the IDEA?

5 THE HEARING OFFICER: Subsequent to the order.

6 MR. RATNER: I'm sorry?

7 THE HEARING OFFICER: Subsequent to the order.

8 MR. RATNER: Which order? I'm so sorry.

9 THE HEARING OFFICER: Well, the  
10 superintendent's memo.

11 MR. RATNER: I wasn't referencing the memo at  
12 all because that's what you told me to do.

13 MS. OWENS: Could you restate the question?

14 MR. RATNER: Absolutely. I'm not talking  
15 about the memo at all.

16 THE HEARING OFFICER: All right. I'm sorry.

17 BY MR. RATNER:

18 Q Schools closed in March of 2020, correct?

19 A Correct.

20 Q For the rest of that school year, the  
21 2020-'21 school year, how did Chesterfield County  
22 Public Schools deliver services to REDACTED in  
23 accordance with her IEP?

24 A Schools were closed on March 16 of 2020.  
25 Chesterfield County provided continuity of learning to

1 facilitate interactions/visited previous concepts, but  
2 there was no new instruction for students with or  
3 without disabilities.

4 Q Thank you. Can we return now -- you can get  
5 rid of that big book and go back to the School  
6 Division's book, tab 16. I think you're probably on  
7 it.

8 Do you have that one in front of you?

9 A Yes.

10 Q Okay. Great. So I wanted to ask you about  
11 the second page, Functional Performance.

12 And the first question is, as a former  
13 special education teacher and an expert in special  
14 education, are you familiar with something called the  
15 Developmental Reading Assessment, or DRA?

16 A Yes.

17 Q Okay. So this is talking about some DRA  
18 scores for REDACTED, correct?

19 A Correct.

20 Q Okay. And it indicates that in October 2019,  
21 which was the beginning of fourth grade, right?

22 A Correct.

23 Q REDACTED's scores indicated an independent level  
24 24 for the DRA. Is that consistent with your  
25 understanding?

1 A Correct.

2 Q Okay. Do you know, are there grades  
3 associated with the DRA levels?

4 A There's guidance for the grade level.

5 Q What's the guidance for a 24?

6 A I don't know specifically because there is a  
7 sliding scale with different levels. So it goes 20 to  
8 24 to 28.

9 MS. OWENS: So, Ms. Freeman, Ms. Pettitway  
10 attended an IEP meeting. Mr. Ratner did not ask  
11 the person who implemented the DRA questions  
12 about --

13 THE HEARING OFFICER: So she didn't have  
14 anything to do with it? If I understand you  
15 correctly, she didn't have anything to do with the  
16 DRA?

17 MS. OWENS: With the implementation of the  
18 DRA.

19 THE HEARING OFFICER: Let me go through the  
20 acronym again, the direct reading --

21 MS. OWENS: Development Reading Assessment.

22 THE HEARING OFFICER: I'm sorry. Development  
23 Reading Assessment.

24 But she is an expert witness, so I guess you  
25 could ask her to comment.

1 MR. RATNER: Well, not just that, if I could  
2 be heard --

3 THE HEARING OFFICER: Yes. Go ahead, briefly.

4 MR. RATNER: Again, she's an IEP team member.  
5 It's my understanding an IEP team member is  
6 empowered to add to the IEP discussion based on the  
7 student's present levels of performance. So they  
8 would consider this information in proposing goals  
9 for REDACTED .

10 THE HEARING OFFICER: Well, if you're asking  
11 this witness to explain what happened at IEP  
12 meetings specifically -- is that what you're asking  
13 her to do?

14 MR. RATNER: That's part of it.

15 THE HEARING OFFICER: Because that would  
16 require that you have the entire IEP team present  
17 to -- and that's probably not going to be something  
18 that one individual could explain.

19 You're squinching your eyes again.

20 MR. RATNER: I'm just concentrating.

21 THE HEARING OFFICER: Okay. And she -- I  
22 thought you when you squinched your eyes that you  
23 have a question.

24 Do you have a question about what I'm saying?

25 MR. RATNER: No.

1 THE HEARING OFFICER: The IEP team is a  
2 collegial body. They come up with an opinion about  
3 what -- or various opinions and then agree and  
4 disagree and all those things. So I think that one  
5 witness probably is not going to be able -- is not  
6 competent to testify on an entire -- you're  
7 squinching your eyes. Do you have a question?

8 MR. RATNER: Just listening.

9 THE HEARING OFFICER: -- to comment on the  
10 entire IEP team deliberations.

11 MR. RATNER: Right. So then I guess I'm left  
12 with a bit of a conundrum. Do I try to  
13 cross-examine the entire team? I mean --

14 THE HEARING OFFICER: You made your witness  
15 list. I don't know --

16 MR. RATNER: But I don't understand.

17 THE HEARING OFFICER: In other words, there  
18 are pieces that each one of the IEP team  
19 contributes is my understanding about that. Am I  
20 correct? She's shaking her head yes.

21 THE WITNESS: Yes.

22 THE HEARING OFFICER: It's very difficult --  
23 at least my experience has been that it's very  
24 difficult for one member of the team to explain all  
25 the thought processes and all of the objectives

1           that each member of the team contributed.

2           MR. RATNER: That's right. But she's the  
3           special education coordinator.

4           THE HEARING OFFICER: Right.

5           MR. RATNER: Right.

6           THE HEARING OFFICER: But she can't really  
7           testify as to what those deliberations were and  
8           that seemed to be where you were going with that  
9           line of questioning.

10          MR. RATNER: Again, my understanding -- and  
11          this is ultimately for you to decide -- the IEP  
12          team has to reach consensus.

13          THE HEARING OFFICER: Right.

14          MR. RATNER: So if this was proposed by the  
15          IEP team, of which she was a member, she's in  
16          agreement with this.

17          THE HEARING OFFICER: Do you have any response  
18          to that, Ms. Owens?

19          MS. OWENS: To the extent that Mr. Ratner is  
20          asking this witness to provide testimony or opine  
21          about the specificity of a DRA that she did not  
22          implement, the document speaks for itself. If he's  
23          asking her questions about what is the DRA, what  
24          does -- going beyond what the IEP team considered,  
25          since this witness did not administer the DRA,

1 would not be an appropriate question.

2 It would have been appropriate questions for  
3 Ms. McCluskey, who was here to testify, of course.

4 THE HEARING OFFICER: Could you save that for  
5 something -- Ms. Ratner is shaking her head.

6 MS. RATNER: I think one of the problems is  
7 the limit on Ms. McCluskey because there's so many  
8 relevant issues and --

9 THE HEARING OFFICER: You have her reserved, I  
10 think.

11 MS. RATNER: That's fine. I just haven't been  
12 clear if we would be allowed to introduce new  
13 subjects when they brought her back. So that's why  
14 we're kind of scrambling. Also, there are a lot of  
15 records -- and this could be wrong, but I  
16 understood Ms. Pettitway was the person at the  
17 school in charge of maintaining the formal  
18 educational file, and that could be wrong. So some  
19 of these things we just need to get authenticated.  
20 This was in her file and whether it's going to be  
21 objected to, and we don't know that.

22 THE HEARING OFFICER: I think there were  
23 stipulations about some of the documents, weren't  
24 there? Maybe you-all could get together and just  
25 come up with the documents that you think on your

1 side that need authentication and perhaps you could  
2 get together again with the school system and see  
3 whether or not there's a stipulation about all  
4 those documents so you don't have to waste -- I  
5 don't mean waste your time. So you don't have to  
6 spend time on authentication that perhaps could be  
7 done another way without spending the entire time  
8 authenticating documents without any explanation  
9 that seems, to me, to be more important to you than  
10 just authenticating documents that are already  
11 here. Anyway, that's my thought.

12 Do we have a question for the witness right  
13 now? My talking and explaining, I think, took  
14 about 15 minutes of your time away. So go ahead.

15 And, again, those time limits are not  
16 limitations. They are more guidelines. If you  
17 need more time, all you have to do is tell me. But  
18 sometimes these things come up as each witness  
19 testified. Like when you were suggesting that  
20 Ms. McCluskey could testify about some of the  
21 documents that this witness really can't address.  
22 So those are my thoughts, and I took 15 minutes of  
23 your time away. So go ahead.

24 BY MR. RATNER:

25 Q Thank you. Sticking to the face of this

1 document, you relied on the statements in here in  
2 proposing an IEP for REDACTED ?

3 A Correct. We looked at several different data  
4 points to come up with a plan.

5 Q So as a special education teacher, have you  
6 ever given a DRA?

7 A Yes, I have.

8 Q Okay. And I noticed here in this document,  
9 we started with October 2019 DRA scores indicated an  
10 independent level 24 versus a level 28 was administered  
11 and noted as an instructional level.

12 As an expert in special education, do you  
13 have an understanding of what that means?

14 A I do.

15 Q Okay. Then we get to, as of February 2020,  
16 REDACTED was able to read a level 38. That's different  
17 than independent level or instructional level, correct?

18 A You cannot assign a level unless it's  
19 independent or instructional.

20 Q Okay. And in REDACTED 's file, did you ever see a  
21 level 38 DRA that -- on which she was independent or  
22 instructional?

23 A To my knowledge, we don't keep all of the DRA  
24 running records. We keep the front copy for data.

25 MR. RATNER: Okay. So Ms. Freeman, again,

1 this may help clear it up. This is something  
2 that's been -- we've just been struggling to  
3 communicate it to you. And, I'm sorry, I will take  
4 the full blame for not being clear.

5 THE HEARING OFFICER: We are just trying to  
6 get through this.

7 MR. RATNER: So, again, we saw that Fountas &  
8 Pinnell document that had --

9 THE HEARING OFFICER: The blue?

10 MR. RATNER: Correct.

11 THE HEARING OFFICER: Yes, I remember that.

12 MR. RATNER: And you remember Mr. Andriano  
13 said, well, look, it says what it says.

14 And then we were talking about there's a data  
15 sheet that underlies that.

16 THE HEARING OFFICER: Oh, okay.

17 MR. RATNER: And the same goes for these DRAs;  
18 there's data sheets. And their position has seemed  
19 to be, if it says it in the IEP, that means she  
20 received, for example, an instructional level.

21 What I just was pointing out to Ms. Pettitway  
22 is this is sort of carefully worded. If you read  
23 it, it says she got an independent level on 24.

24 THE HEARING OFFICER: Wait. Which exhibit are  
25 you on?

1 MR. RATNER: I'm on 16, number 2. Page 2,  
2 excuse me.

3 THE HEARING OFFICER: Is that school --

4 MR. RATNER: School Board book.

5 MS. OWENS: Ms. Freeman, I'm sorry, when you  
6 finish with this point, may we take a short break,  
7 please.

8 THE HEARING OFFICER: Yes. We can do it now.

9 MR. RATNER: Why don't we do it now.

10 THE HEARING OFFICER: I don't want to make you  
11 wait.

12 MS. OWENS: Thank you.

13

14 (Break taken.)

15

16 MR. RATNER: So what I was talking about was  
17 on Exhibit 16, second page.

18 THE HEARING OFFICER: School Board?

19 MR. RATNER: Correct.

20 THE HEARING OFFICER: Okay. School Exhibit  
21 16?

22 MR. RATNER: That's right.

23 So, again, I'm trying to question this witness  
24 about the different language used on this document  
25 about being at an independent level of accuracy,

1 being at an instructional level versus was able to  
2 read a level 38.

3 THE HEARING OFFICER: Okay.

4 MR. RATNER: We've seen a lot of DRAs. We  
5 haven't reviewed them with witnesses yet, but we  
6 have seen them.

7 THE HEARING OFFICER: Developmental Reading  
8 Assessment.

9 MR. RATNER: Correct. And we've reviewed them  
10 with a witness very briefly, but what we've not  
11 seen is a DRA that shows it was scored a level 38.

12 And what the School Board's position seems to  
13 be is if it's in the IEP, then that's the same as  
14 the data sheet showing that. That's what I'm  
15 trying to get at. That's what we've been trying to  
16 get at. There are no data sheets to corroborate a  
17 lot of the statements in here.

18 And then when I ask a witness, I'm told it's  
19 not the correct witness to address that. So that's  
20 been a little bit challenging.

21 THE HEARING OFFICER: But playing this  
22 forward, if I were to have data sheets, what  
23 exactly would that explain to me? Because I'm  
24 not --

25 MR. RATNER: I'll show you.

1 THE HEARING OFFICER: I don't know what I  
2 would be learning on a data sheet. I thought the  
3 prehearing conference -- I don't remember which one  
4 it was, but we were talking about protocol. Is  
5 this in -- is this like a protocol or a --

6 MS. OWENS: So, Ms. Freeman, the people to ask  
7 the question would have, of course, been the people  
8 who have administered the assessments that are in  
9 question.

10 THE HEARING OFFICER: It would be  
11 Ms. McCluskey, right?

12 MS. OWENS: Ms. McCluskey, she administered  
13 DRAs during the 2020-2021 school year and the  
14 special --

15 THE HEARING OFFICER: Wait a minute. '20-'21?

16 MS. OWENS: Yes, ma'am. And the special  
17 education teacher Ms. Smith would have  
18 administered assessments during the fourth grade  
19 school year.

20 So to ask this witness to testify about what  
21 others meant by their testing of the student or  
22 conducting their assessments is not a fair question  
23 for this witness.

24 MR. RATNER: I wasn't asking her what they  
25 meant. What I was concerned about was -- what I

1 heard Ms. Pettitway say before we went off the  
2 record was that there are DRAs that we don't keep,  
3 that don't make it into the file. And if the  
4 school was going to rely on this statement in an  
5 IEP without being able to produce the document to  
6 substantiate it, we believe that is prejudicial and  
7 unfair to this family.

8 MS. OWENS: Ms. Freeman, if the School Board  
9 was required to keep a copy of every single  
10 document, every single piece of paper that it uses  
11 with a student, then there would be crates full of  
12 documents for each and every student. There has to  
13 be a way that the School Division can document what  
14 occurred but yet not maintain every single piece of  
15 paper, which seems to be what Mr. Ratner is  
16 expecting the School Division to do. I don't think  
17 it's part of anyone's practice to maintain every  
18 single piece of paper that it uses. No one does  
19 that.

20 THE HEARING OFFICER: You're right, that does  
21 seem unrealistic.

22 MR. RATNER: But they did save DRAs. They  
23 produced them to us, and we've never seen one with  
24 a 38 independent or instructional.

25 THE HEARING OFFICER: Weren't those items

1 subpoenaed?

2 MR. RATNER: Yes.

3 THE HEARING OFFICER: And the school system is  
4 saying now, and they said before, that those items  
5 are not available. Ms. Owens just explained that  
6 it requires an exorbitant amount of files to be  
7 kept that aren't necessarily required to be kept or  
8 that just aren't there. And that, I believe, was  
9 what I was referring to back in one of the  
10 prehearing reports when I discussed presumed to be  
11 acting in good faith. That's really what I was  
12 talking about, I think. But if they represent they  
13 don't have it, then --

14 MS. RATNER: May I just represent a  
15 hypothetical that I think would make it make sense  
16 what we're asking.

17 So let's say in the month of April there were  
18 ten reading assessments administered to REDACTED and  
19 they are all over the place, you know, one is good,  
20 but the others are really poor. And the ones that  
21 are produced to us are in the latter category, poor  
22 results, in the same time frame. But what's  
23 written in the answer to due process and what's  
24 written in the prior written notice is only the  
25 single one that's good that they don't have.

1           And so also we would just dispute that keeping  
2           DRAs is not required because there's a whole  
3           file --

4           THE HEARING OFFICER: I honestly don't know if  
5           it's required or not.

6           MS. RATNER: I don't either. But it appears  
7           from the comprehensive file and the documentation  
8           that that is something formally maintained and so  
9           it just -- whether it's an inference -- we are not  
10          saying that they don't have it or they are not  
11          telling the truth. It's more just -- we don't  
12          think it's appropriate for an IEP prior written  
13          notice to cherrypick out one that we don't have.

14          THE HEARING OFFICER: Yeah.

15          MS. RATNER: And we think that the whole -- so  
16          somebody -- and I apologize because we didn't know  
17          that Ms. McCluskey was the correct person to ask  
18          about the DRAs because the answer referenced  
19          Ms. Houston doing the Fountas & Pinnell, which is  
20          similar. So we had that that testimony would be  
21          elicited from her. And then she made clear she  
22          didn't do those. Again, we felt that we ran out of  
23          time with Ms. McCluskey, so that's -- that's the  
24          point.

25          THE HEARING OFFICER: Number one -- and

1           you-all can respond, too, but I have to respond  
2           while I have the thoughts in my head or I lose  
3           them.

4           But the number one item that I was going to  
5           address that you brought up was whether or not I'm  
6           going to draw an inference, the inference --  
7           adverse inference. If you want me or you feel as  
8           if the evidence shows that I need to draw an  
9           adverse inference, that's part of the conclusion in  
10          your concluding remarks and I totally understand  
11          where you are. No, you're absolutely right, it's  
12          not -- it's doesn't make logical sense to  
13          cherrypick items out, one's good, the rest are bad.  
14          That does not mean I've seen that at all. Because  
15          it was a hypothetical.

16                 MS. RATNER: Yeah.

17                 THE HEARING OFFICER: The second item I would  
18                 address is that we do -- I'm giving you the time to  
19                 talk.

20                 MS. RATNER: Thank you.

21                 THE HEARING OFFICER: Enough time that you  
22                 need because you're extremely adamant that you want  
23                 to have me listen to Ms. McCluskey and you don't  
24                 feel as if I -- that she was the one that I think I  
25                 recall that she spent about two years with REDACTED.

1           So if you feel that you're lacking -- and the other  
2           thing is, the other item that needs to be addressed  
3           is that other witnesses appear to have -- appear to  
4           be the best witness for certain -- you've mentioned  
5           that, and I don't want to cut off a witness  
6           unnecessarily if you feel that there's real  
7           substantive questioning that you want to do.

8           MS. RATNER: Thank you for that.

9           And I will just say, we're used to -- when you  
10          say -- and this is our fault, too. When you say  
11          there's a limit, we're used to a judge, this is the  
12          limit and we're going to be in the limit and we're  
13          not going to --

14          THE HEARING OFFICER: This is a little  
15          different than that.

16          MS. RATNER: Right. So that was a mistake.

17          So part of it is we simply know -- we didn't  
18          necessarily know and we, based on the  
19          documentation, had made an assumption that it was a  
20          different witness. So anyway, but that's all that  
21          needs to be said. I appreciate the latitude on  
22          that.

23          THE HEARING OFFICER: And I don't think either  
24          one of you needs to apologize for not knowing.  
25          It's obvious you're extremely well prepared.

1           So, all right, let's move forward -- and  
2           knowledgeable. So let -- Mr. Andriano?

3           MR. ANDRIANO: I have just two quick points.

4           THE HEARING OFFICER: I'm sorry to cut you  
5           off. I completely forgot.

6           MR. ANDRIANO: Sticking with the hypotheticals  
7           for a second, this is really no different than  
8           taking every students' report card and saying, oh,  
9           this is the assigned grade, we want to see  
10          everything that led up to that grade going back to  
11          how many ever years. SOL results, we want to see  
12          the underlying. It's the same thing. Schools  
13          cannot keep -- what they often do, like you saw  
14          with --

15          THE HEARING OFFICER: McCluskey.

16          MR. ANDRIANO: -- is they log the scores on a  
17          running record, and the underlying documents are  
18          not maintained in perpetuity. They are just not.

19          THE HEARING OFFICER: I understand that  
20          totally. You can't have an extra library for every  
21          single item. The other thing is teachers send  
22          those items home, and a lot of the documentation  
23          may be with parents. I don't mean Mrs. REDACTED in  
24          particular.

25          MS. RATNER: We do have documentation and we

1 want to discuss the documentation we do have and we  
2 want to make sure that gets in some way that in the  
3 spring of fifth grade there are a lot of really  
4 poor reading scores on these DRAs that we do have  
5 and we just need to figure out who the right  
6 witness is to ask about those. They were either  
7 produced to us in this case or were given in a  
8 request for the file or from a FOIA request. So  
9 that just seems certainly relevant as to whether  
10 she's made progress or not. We are not asking for  
11 anything else. We want to make sure that the  
12 complete picture of these assessments all in the  
13 same time is part of it.

14 THE HEARING OFFICER: You had another comment,  
15 I think?

16 MR. ANDRIANO: Thank you.

17 The only other point I was going to make, this  
18 was an August 2020 IEP. Mrs. REDACTED participated in  
19 this meeting. She consented to it. If she had  
20 questions about the DRA back then, they were either  
21 addressed by the IEP team or she should have  
22 brought it up at that time.

23 THE HEARING OFFICER: Thank you. I'll let you  
24 comment on that, if you want.

25 MR. RATNER: We don't need to. Not

1           surprisingly we don't fully agree, but we will  
2           argue that later.

3           THE HEARING OFFICER: Let's go ahead with this  
4           witness. I believe it was your direct.

5           MR. RATNER: That's right. And I appreciate  
6           it.

7           MS. OWENS: Before Mr. Ratner begins, just so  
8           we have an idea about the time, how much more time  
9           do we have with this witness?

10          THE HEARING OFFICER: We had a long  
11          discussion, which took up most --

12          MS. OWENS: We do have two other witnesses  
13          waiting.

14          THE HEARING OFFICER: I know. Let's see. I  
15          think you had questioned her for about five minutes  
16          or so before we had started talking. So ten more  
17          minutes.

18          MR. RATNER: Okay. Thank you. And then maybe  
19          we'll take a break and talk about these other  
20          witnesses, or they can do their cross or whatever.  
21          Thank you. Just take me a second to find my spot.

22          THE HEARING OFFICER: That's okay.

23          BY MR. RATNER:

24                 Q    Okay. Ms. Pettitway, thank you for your  
25                 patience. Parents' book Volume 1, tab 7.

1 MR. RATNER: And specifically -- and, again,  
2 Ms. Freeman, I tried to put all of her emails in  
3 one spot so I could find them together.

4 THE HEARING OFFICER: So we are on Volume 1,  
5 7, correct?

6 MR. RATNER: Correct.

7 THE HEARING OFFICER: All right.

8 BY MR. RATNER:

9 Q So I want to ask you about the issue with the  
10 OT assessment, and before you start reviewing the  
11 documents, I just -- it's not a memory test and feel  
12 free to say I don't remember --

13 MR. ANDRIANO: Sorry, Mr. Ratner, tab 7?

14 MR. RATNER: Tab 7, Volume 1.

15 BY MR. RATNER:

16 Q I asked you earlier about a request from  
17 Mrs. REDACTED to waive an IEP meeting in spring/early  
18 summer of 2021, and you said you generally recalled  
19 that; is that right?

20 A Yes.

21 Q Can you tell Ms. Freeman what you remember  
22 about that?

23 A Is there something I can refer to?

24 Q If you don't remember anything without  
25 referring to it, then we can look through a lot of

1 emails, but I think then we're going to have a long  
2 discussion about is it the entire thread and all of  
3 that. So I was trying to see --

4 THE HEARING OFFICER: Are you talking about  
5 this letter April 27?

6 MR. RATNER: I am not. It's later in the  
7 stack.

8 THE HEARING OFFICER: Oh, it's later in the  
9 stack. Okay. What page are you on then?

10 MR. RATNER: 64. Actually, no, it's a little  
11 bit further. I apologize. I'm just trying to get  
12 to the start of it. It is 66.

13 BY MR. RATNER:

14 Q So, Ms. Pettitway, before we dive into that --

15 MR. RATNER: Ms. Freeman, perhaps you will  
16 indulge me, I've got a much more discrete question  
17 I could ask and then perhaps we can conclude on  
18 this.

19 THE HEARING OFFICER: Okay. Go ahead.

20 BY MR. RATNER:

21 Q On 64 and 65 within that tab, that appears to  
22 be an email chain between yourself Fiona  
23 Bessey-Bushnell and Christine McCluskey that starts on  
24 65 and then --

25 MR. ANDRIANO: Mr. Ratner, I'm sorry, when you

1 say "65," where it says Parents and that has the  
2 Bates number?

3 MR. RATNER: Correct.

4 MR. ANDRIANO: Not the REDACTED Bates number?

5 MR. RATNER: Nope.

6 MR. ANDRIANO: Okay.

7 THE HEARING OFFICER: It's 62?

8 MR. RATNER: No, it's 65.

9 THE HEARING OFFICER: 65. Okay.

10 BY MR. RATNER:

11 Q And it looks like there are a few emails in  
12 the chain, and the way I read the chain is the earliest  
13 one in the chain is the last in the book, so you have  
14 to read it backwards and go above it to the later ones.

15 Do you recognize this email chain?

16 A I'm on Parent 65.

17 Q 65. Then go backwards to 64, right? So  
18 read -- and I can direct your attention. Maybe that  
19 will help. I'm first looking at an email that's at the  
20 top of page 65 from you to Fiona Bessey-Bushnell, cc'd  
21 to Christine McCluskey on September 1st, 2020, at  
22 6:30 a.m.

23 Do you see that?

24 A Yes.

25 Q Is that an email you sent?

1 A Yes.

2 Q What are you communicating in that email?

3 A I asked her about were there any other  
4 text-to-speech devices available based on, I'm sure,  
5 parent input from an IEP --

6 Q Okay.

7 A -- near that date.

8 Q And what was the date of the email?

9 A 9/1.

10 Q 2020?

11 A 2020.

12 Q So is that the fall of fifth grade?

13 A Yes.

14 Q Okay. And who is Ms. Bessey-Bushnell?

15 A She is in charge of assistive technology. I  
16 don't know her title.

17 Q And then it appears to me if you go up, you  
18 forwarded the message on -- so you go backwards -- on  
19 Friday, May 21st, 2021, you wrote -- and it's not clear  
20 to whom you wrote, but this came from the School Board:  
21 Hello. Did she ever respond back to you? I just  
22 received the out of office the day I sent it.

23 Do you see that?

24 A Yes.

25 Q Okay. And then above it, Ms. McCluskey

1 responds to you.

2 Am I reading that correctly?

3 A Possibly. It doesn't have the -- yeah, I see  
4 it, yes.

5 Q So this is close to the end of the school  
6 year, now, right, that you're following up with  
7 Ms. McCluskey, right, May 21st?

8 A Yes.

9 Q How many months is that later? We went from  
10 September, October, November, December, January,  
11 February, March, April, May, nine months later?

12 A There's also a question number two that may  
13 or may not have pertained to student number above.

14 Q Okay.

15 A They are two separate entities.

16 Q Right. Okay. And nine months later, you  
17 followed up with Ms. McCluskey as to whether  
18 Ms. Bessey-Bushnell responded, correct?

19 A I can't follow it with fidelity because --

20 Q Well, what's above it in the document that  
21 the School Board produced to us is Ms. McCluskey  
22 writing: Not that I remember.

23 Correct?

24 A Yes. But the top one doesn't have a line to  
25 coincide with the rest of the email.

1 Q Okay. And then you write back to  
2 Ms. McCluskey on May 24: Okay. Thanks. I just wanted  
3 to check because it was a bullet point from the parent  
4 that needed to be addressed.

5 Correct?

6 A Correct.

7 Q Okay. So in September, I think your  
8 testimony was just a minute ago, that you would have  
9 sent this, you presumed, in response to a parent  
10 inquiry, and now in May, the entire fifth grade just  
11 about has passed and you're following up because it was  
12 a bullet point and you never got a response from  
13 Ms. Bessey-Bushnell; is that accurate?

14 A I cannot recall the specifics, but based on  
15 this information, except for the top one that's not  
16 correlated with these -- again, there's two questions.  
17 So we may have received information for number one but  
18 not number two.

19 Q All right. Now let's go to the OT.

20 MR. RATNER: And, again, Ms. Freeman, I  
21 apologize if this format doesn't look familiar to  
22 the witness. We got these from the School Board.  
23 We would have no way to access these otherwise. So  
24 I'm not totally --

25 THE HEARING OFFICER: But you're talking about

1 the assistive technology? I thought you said OT.

2 MR. RATNER: AT, assistive technology. Now  
3 we're moving to OT. First it was AT, assistive  
4 technology. Now we're moving to occupational  
5 therapy.

6 THE HEARING OFFICER: All right. What did you  
7 say was the reason for the occupational -- the OT  
8 testing? I think there was a question about that  
9 from the Mom.

10 THE WITNESS: I think it was in an IEP  
11 meeting. Can you direct me to which one?

12 MR. RATNER: I believe it was in the February  
13 of 2021 IEP meeting.

14 THE HEARING OFFICER: Do you happen to recall  
15 what the reason? If you don't know, just tell me.

16 THE WITNESS: I would love to look at the PWN  
17 to be more specific.

18 THE HEARING OFFICER: I remember when I read  
19 this being curious about that.

20 MR. RATNER: Sure. I can direct you to the  
21 prior written notice if you give me one minute.  
22 It's either going to be tab 35 or 38 in the School  
23 book.

24 MS. OWENS: It's Exhibit Number 38 in the  
25 School Board's exhibit binder.

1 THE HEARING OFFICER: Did you say 38?

2 MS. OWENS: Yes, ma'am.

3 THE HEARING OFFICER: Or somebody said 38.

4 BY MR. RATNER:

5 Q Okay. You've reviewed it?

6 A Yes.

7 Q Do you see the information about the  
8 occupational therapy consultation there?

9 A I do.

10 Q Does that refresh your recollection about it?

11 A Yes.

12 Q Okay. So before we now address that, since  
13 we've got 38 in front of you, I'd like to ask you a few  
14 more questions about it, if I could.

15 Do you see here -- and the prior written  
16 notice is where the School Board kind of summarizes  
17 what was decided at the IEP meeting. Is that fair? I  
18 don't want to put words in your mouth.

19 A Correct.

20 Q Do you see here CCPS refuses the Parents'  
21 request for multisensory trained instructor to be  
22 provided in all classes for the 2021-2022 school year?

23 A Yes.

24 Q Do you remember why that was refused?

25 A It was not required for FAPE. She was

1 receiving the certified special education teacher  
2 instruction and multisensory.

3 Q Can you tell me what multisensory instruction  
4 REDACTED received in fifth grade at Old Hundred  
5 Elementary School?

6 A Can I see the IEP? Multisensory learning is  
7 an approach to reading where you're using sensory  
8 activities for decoding.

9 Q For decoding. How about encoding?

10 A Encoding. It's combined. It's both.

11 Q But you said she didn't have any goals for  
12 decoding or encoding, right?

13 A She has a decoding goal.

14 MS. OWENS: Objection. I know I'm late. The  
15 witness has already answered the question, but he's  
16 mischaracterizing the testimony previously offered  
17 by the witness.

18 And to the extent he's asking the witness to  
19 testify about how the IEP was implemented with the  
20 regard to the multisensory reading instruction, she  
21 would not be the appropriate witness because she's  
22 already testified that she did not deliver  
23 instruction to REDACTED.

24 MR. RATNER: Again, and maybe I misunderstood  
25 her role, but she's the special educational

1 coordinator so I thought she would be responsible  
2 for knowing how the student's IEPs were  
3 implemented.

4 THE HEARING OFFICER: How the student's IEP  
5 was what?

6 MR. RATNER: Implemented. And there's a lot  
7 of discussion of multisensory instruction.

8 THE HEARING OFFICER: I think you could ask  
9 her about what multisensory instruction is, perhaps  
10 whatever her knowledge is, if she has any, about  
11 how that related to REDACTED, if she knows, but other  
12 than that --

13 MR. RATNER: I did ask her about multisensory,  
14 and I think she already answered that.

15 THE HEARING OFFICER: I don't think she's in a  
16 position to interpret this IEP as far as  
17 multisensory approach because that would have been  
18 the collaborative effort.

19 MR. RATNER: Okay. But she is an expert  
20 witness on IEPs.

21 THE HEARING OFFICER: Yeah, that's true, but  
22 not for everything.

23 MR. RATNER: That's fair enough.

24 BY MR. RATNER:

25 Q But when you're reviewing an IEP as an expert

1 in special education and IEP implementation, is just  
2 the two words multisensory descriptive enough for a  
3 teacher to know what to do with a student?

4 MS. OWENS: I'm going to object to the -- that  
5 question because it's unclear as stated to the  
6 witness. It may be a compound question. I just  
7 missed most of what -- I didn't understand at all  
8 what --

9 THE HEARING OFFICER: I was thinking that it  
10 calls for her to speculate about what the teacher's  
11 interpretation of multisensory approach is.

12 MS. OWENS: I would ask that Mr. Ratner  
13 rephrase that question.

14 THE HEARING OFFICER: Yeah, we probably need  
15 another question.

16 MR. RATNER: I would be happy to.

17 THE HEARING OFFICER: Sustained.

18 BY MR. RATNER:

19 Q Does multisensory instruction have a single  
20 definition?

21 A It is the instruction that includes sensory  
22 activities for decoding and encoding.

23 THE HEARING OFFICER: Speak up.

24 THE WITNESS: It is instruction that uses  
25 sensory activities for encoding and decoding words.

1 BY MR. RATNER:

2 Q Okay. And are there specific methodologies  
3 at Chesterfield County Public Schools, and specifically  
4 Old Hundred Elementary, that are multisensory that were  
5 used with REDACTED; do you know?

6 A (Shakes head.)

7 MS. OWENS: Object to the question as it  
8 pertains to IEP implementation. This witness has  
9 already testified that she does not deliver  
10 instruction to REDACTED and that she did not deliver  
11 instruction to REDACTED during the fourth or the fifth  
12 grade school year.

13 MR. RATNER: So if she doesn't know, she  
14 doesn't know.

15 THE HEARING OFFICER: She said she doesn't  
16 know. Let's move on. Sustained.

17 BY MR. RATNER:

18 Q CCPS refused the Parents' request to add an  
19 accommodation to the IEP that would provide  
20 consultation services to staff by the dyslexia  
21 specialist in CCPS for the 2021-'22 school year.

22 Do you see that?

23 A Yes.

24 Q Do you remember that refusal?

25 A Yes.

1 Q Do you remember discussing it at the IEP team  
2 meeting?

3 A Yes.

4 Q Okay. What was the basis of refusing to  
5 offer consultative services of the dyslexia specialist  
6 to REDACTED?

7 A It was not required for FAPE. The specialist  
8 is available throughout Chesterfield County for all  
9 faculty and staff, and we specifically had worked with  
10 the dyslexia specialist at Old Hundred.

11 Q Who is "we"?

12 A Our team of teachers.

13 Q Who is "our team"?

14 A Several special education teachers.

15 Q Anyone who taught REDACTED?

16 A Yes.

17 Q Who?

18 A Stephanie Smith, Christine McCluskey.

19 Q When did that occur?

20 A I do not have a date.

21 Q Would you make a sign-in sheet for that or  
22 anything?

23 A No. But I would probably have an email.

24 THE HEARING OFFICER: Who was the other  
25 teacher you mentioned?

1 THE WITNESS: Stephanie Smith.

2 THE HEARING OFFICER: And?

3 THE WITNESS: Christine McCluskey.

4 BY MR. RATNER:

5 Q Do you remember the training?

6 A Yes.

7 Q Do you remember how long it lasted?

8 A No, I do not recall.

9 Q Do you remember when it took place?

10 MS. OWENS: I'm going to object to the  
11 relevancy of these questions.

12 THE HEARING OFFICER: What was the specific  
13 question you asked?

14 MR. RATNER: I first asked her about the  
15 training.

16 THE HEARING OFFICER: The last one.

17 MR. RATNER: And then when the training took  
18 place that she's referencing that she can't  
19 remember.

20 THE HEARING OFFICER: Training for what?

21 MR. RATNER: She said that the dyslexia  
22 coordinator --

23 THE HEARING OFFICER: Oh, the dyslexia  
24 coordinator.

25 MR. RATNER: -- offered training to

1 Ms. McCluskey and Ms. Smith, and I was asking if  
2 she could recall when that occurred.

3 THE HEARING OFFICER: I'll overrule that at  
4 this time. Okay. Go ahead.

5 BY MR. RATNER:

6 Q Do you recall when that training occurred?

7 A No. But if I --

8 THE HEARING OFFICER: You just said, No?

9 THE WITNESS: Yes.

10 THE HEARING OFFICER: Okay.

11 BY MR. RATNER:

12 Q Do you remember how long it was?

13 A No.

14 Q Do you remember what topics were covered?

15 A Yes.

16 Q Okay. What were the topics?

17 A Multisensory approaches to reading and  
18 spelling. We talked about administering the PAST test.

19 Q And I'm sorry to belabor this. This is what  
20 I was trying to get at before.

21 What are the multisensory techniques that  
22 were used with REDACTED or other students at Old  
23 Hundred Elementary School?

24 MS. OWENS: Once again object because, again,  
25 this witness did not deliver instruction to REDACTED

1 REDACTED .

2 THE HEARING OFFICER: I think we've gone on  
3 too far into this training that she doesn't know  
4 about really.

5 MR. RATNER: Could I ask what the PAST test  
6 is? I just wasn't familiar with that. She  
7 mentioned it.

8 THE HEARING OFFICER: Do you remember what the  
9 PAST test was?

10 THE WITNESS: Yes. I can look up the specific  
11 name so I don't mess it up.

12 MS. OWENS: Is it okay if the witness says  
13 she's she doesn't know if she doesn't know.

14 MR. RATNER: That's absolutely fine.

15 MS. RATNER: Did you say PAST?

16 THE WITNESS: P-A-S-T.

17 MS. RATNER: PAST as in P-A-S-T?

18 THE WITNESS: Yes.

19 MR. RATNER: So now I'd like -- and this is a  
20 long email, so it may take us a little while to get  
21 through. This is going to be my last area of  
22 questioning.

23 THE HEARING OFFICER: Looks like you're going  
24 to end about 4:00.

25

1 BY MR. RATNER:

2 Q So this runs from Parents' 66, which is  
3 Volume 1, tab 7 to Parents' 76, 66 to 76. It's 11  
4 pages inclusive. And, again, there's a lot of emails  
5 and a lot of blank space that relate to the OT  
6 evaluation.

7 Do you see that?

8 THE HEARING OFFICER: 70?

9 MR. RATNER: It's 66 through 76. So it's 11  
10 pages inclusive.

11 BY MR. RATNER:

12 Q And let me know when you're ready to answer  
13 some specific questions about this.

14 A Okay.

15 Q Ms. Pettiway, if I could ask you to focus  
16 your attention -- I'm starting on page 71 within that.

17 Do you see an email from Mrs. REDACTED to you on  
18 May 28, 2021?

19 A Yes.

20 Q This was after the Parents had already  
21 notified the IEP team that they would be enrolling REDACTED  
22 in New Community School; is that correct?

23 A This email chain references the mediation  
24 form. I have not gotten to --

25 Q What I'm talking about is Dear, Ms. Pettiway,

1 we have received the OT evaluation.

2 Do you see that?

3 A (Nods head.)

4 Q I can show you the 10-day letter if you would  
5 like to see that. If I represent to you -- it's  
6 already in evidence -- it was sent in April of 2021.  
7 Would you have any reason to disagree with me? May,  
8 excuse me, May 14, 2021.

9 A Do I disagree with the letter or the date of  
10 the letter?

11 Q Right. I'm trying to save us some time going  
12 to look at the letter that it was --

13 MR. RATNER: Maybe Ms. Owens would stipulate  
14 that the 10-day letter was dated May 14, 2021.  
15 Ms. Owens?

16 MS. OWENS: I'm not sure where you're going  
17 with the question. What is your question to me?

18 MR. RATNER: Will you stipulate that the date  
19 of the 10-day notice letter was May 14 --

20 MS. OWENS: I would ask that you show the  
21 witness any documents that you have for the witness  
22 to review. I can't speak for Ms. Pettitway.

23 MR. RATNER: I didn't ask you to speak for  
24 Ms. Pettitway. I asked if you would stipulate to a  
25 date and you are not willing to do that. Is that

1 right?

2 MS. OWENS: I am not stipulating.

3 MR. RATNER: Okay. So then it's just going to  
4 take me a minute to find that, Ms. Freeman, if you  
5 don't mind.

6 BY MR. RATNER:

7 Q So on May 28, what was happening with the OT  
8 evaluation?

9 A The occupational therapy evaluation was  
10 complete and we needed to meet as a team to discuss the  
11 summary of that report.

12 Q And do you see that Mrs. REDACTED is asking if  
13 the meeting can be waived?

14 A Yes.

15 Q Okay. And remember previously we went over  
16 your April 27, 2020, letter where you cited -- I can  
17 show you that as well -- where you cited to the  
18 regulations about how an IEP meeting could be waived if  
19 the Parents and the School Board agreed to.

20 Would you like me to show you that document?

21 A I think it's Number 3 in here. Yes, can you  
22 reference it?

23 Q I certainly can. Bear with me. So it's  
24 tab 7 in the Parents' book, just that's where I know it  
25 to be.

1 Do you see that in the third paragraph?

2 A Yes.

3 Q Where you're quoting the Virginia regulation  
4 that says an IEP meeting can be waived, correct?

5 A Yes, I read it.

6 Q Okay. So then we're going to go back to  
7 tab 7, but since Ms. Owens won't stipulate to a date of  
8 the document that's already in evidence, I would like  
9 for you to flip to tab 39.

10 MR. ANDRIANO: I don't think that is in  
11 evidence.

12 MR. RATNER: Well, we certainly had testimony  
13 on it yesterday, and I would offer it into evidence  
14 at this time.

15 MR. ANDRIANO: We will stipulate that an IEP  
16 meeting can be waived if both parties agree to it  
17 if you will stipulate that Chesterfield County  
18 Public Schools did not stipulate to waiving that  
19 IEP meeting.

20 MR. RATNER: Yes, that's clear that they  
21 didn't.

22 MR. ANDRIANO: Okay. So why would you keep  
23 asking her that if --

24 MR. RATNER: I'm trying to find out why would  
25 Chesterfield County Public Schools not waive an IEP

1 meeting to discuss an OT evaluation that did not  
2 recommend OT services and before -- can I rephrase  
3 the question, because it's going to be a compound  
4 question, so I apologize.

5 THE HEARING OFFICER: Uh-huh.

6 MR. RATNER: Thank you.

7 BY MR. RATNER:

8 Q You understood that on May 14, 2021, looking  
9 at tab 39, that the REDACTED had already given CCPS their  
10 notice that they were going to be enrolling REDACTED in The  
11 New Community School, correct?

12 A Correct.

13 Q Okay. They had discussed that at the  
14 February IEP meeting with you, correct, the February  
15 2021 IEP meeting?

16 A Yes. It is written in the PWN.

17 Q And do you recall that the OT assessment did  
18 not recommend OT services for REDACTED? I'm happy to show  
19 you that as well.

20 A I just have to look at it real quick.

21 Q Sure. Let me find it for you.

22 THE HEARING OFFICER: You're almost --

23 MR. RATNER: I'm on my last -- 38, please.

24 THE HEARING OFFICER: Is it page 38 or --

25 MR. RATNER: Tab 38.

1 THE HEARING OFFICER: Is it School Board 38?

2 MR. RATNER: No, I'm sorry. Parents' 38.

3 THE HEARING OFFICER: Okay. I'm looking at  
4 the occupational therapy.

5 BY MR. RATNER:

6 Q In the summary and recommendations, which is  
7 again there's a really teeny number so you can use the  
8 larger number, it's 321.

9 Do you see the summary and recommendations?

10 A The one that says Parents' 485? Is it  
11 anywhere near there for page number?

12 Q I don't think you're in the right tab. 38.

13 A Parents' 38.

14 Q Uh-huh.

15 A All right. Thank you.

16 Q Sure. And, again, the summary and  
17 recommendations where it says, written expression was  
18 found to be an area of weakness on her most recent  
19 educational evaluation and it was noted that  
20 orthographic processing weaknesses affect her ability  
21 to spell successfully.

22 Do you remember discussing that with  
23 Catherine Davis or anybody else on the IEP team?

24 A Yes. Ms. Davis gave a summary of her report.

25 Q And wasn't there -- at the February IEP

1 meeting, one of the evaluators talked about the -- what  
2 was that test called? It's called the VBI. Are you  
3 familiar with the VBI assessment?

4 A It's VMI. Is it VMI or VBI?

5 MS. RATNER: I'm talking out of school. I  
6 need to find it.

7 MS. OWENS: Ms. Freeman, I will point out that  
8 it's now 4:05.

9 MR. RATNER: Ms. Freeman, again, this is where  
10 I'm getting confused. I thought you were telling  
11 me I could manage the time and make sure I finish  
12 in the five days. These are important witnesses to  
13 us.

14 THE HEARING OFFICER: But I also said that we  
15 were going to try to focus on the time guidelines.  
16 You're about five minutes past where I thought you  
17 were going to be.

18 How much more time do you think you need?

19 MR. RATNER: This is my last area.

20 THE HEARING OFFICER: How much more time do  
21 you think you need?

22 MR. RATNER: Less than five minutes.

23 THE HEARING OFFICER: Okay. Go ahead.

24 MS. RATNER: She's right. It's the VMI.  
25

1 BY MR. RATNER:

2 Q Do you remember someone discussing that at  
3 the IEP --

4 THE HEARING OFFICER: What's that acronym  
5 again?

6 MS. RATNER: VMI like the Virginia Military  
7 Institute.

8 THE HEARING OFFICER: I know. But what does  
9 it stand for?

10 THE WITNESS: Visual motor integration.

11 THE HEARING OFFICER: That's right. Okay.

12 BY MR. RATNER:

13 Q Was that discussed in the February IEP  
14 meeting as part of the psychological evaluation?

15 A Yes.

16 Q That's an OT evaluation, isn't it? Visual  
17 motor integration?

18 A I cannot speak to that. That would be the  
19 psychologist.

20 Q Okay. Fair enough. So on tab 38, the dates  
21 of the evaluation were 4/30 and 5/7, 2021. Do you see  
22 that?

23 A Yes.

24 Q Okay. And then you were communicating with  
25 Mrs. REDACTED on 5/28, correct? That's page 71 of tab 7.

1 A Yes.

2 Q Okay. And you had already provided the OT  
3 evaluation to Mrs. REDACTED because she's writing, we, the  
4 parents, have reviewed the OT evaluation, correct?

5 A Correct.

6 Q And what is the summary and recommendations  
7 of the OT evaluation?

8 MS. OWENS: So, Ms. Freeman, I'm not sure if  
9 Mr. Ratner is asking the witness to simply read a  
10 document into evidence that speaks for itself.

11 THE HEARING OFFICER: Were you asking her to  
12 read the document? She already said I cannot speak  
13 to that about -- I believe she mentioned -- did you  
14 not say that a psychologist needs to interpret the  
15 VMI?

16 THE WITNESS: Yes, ma'am.

17 MR. RATNER: Okay. So they -- I'm trying to  
18 find out why Chesterfield County, when the summary  
19 and recommendations says they don't recommend OT,  
20 Mrs. REDACTED says --

21 MR. ANDRIANO: Todd, the occupational  
22 therapist said that. The IEP team didn't say that.

23 MR. RATNER: Okay. So, I mean, again, she's  
24 an expert in special education.

25 THE HEARING OFFICER: But she just said, I

1 can't speak to this, which it requires --

2 MR. RATNER: Okay.

3 THE HEARING OFFICER: I have limitations about  
4 understanding the difference between OT and AT and  
5 all of that. I have to recollect those things.  
6 But if you're saying that you cannot speak to that,  
7 which is what I believe you stated --

8 THE WITNESS: Yes.

9 THE HEARING OFFICER: -- then I think that  
10 Mr. Andriano's point is well taken that --

11 MR. RATNER: Great.

12 THE HEARING OFFICER: -- it's not her -- it's  
13 just not her jurisdiction.

14 MR. RATNER: Okay. If I could have just one  
15 more minute to find a document, and then I will  
16 finish up.

17 THE HEARING OFFICER: Go ahead. One more  
18 minute.

19 MR. RATNER: Tab 48 in the School book,  
20 please.

21 MR. ANDRIANO: 48?

22 MR. RATNER: Yes, sir.

23 THE HEARING OFFICER: Which book would that be  
24 in?

25 MR. RATNER: That's the School book.

1 THE HEARING OFFICER: Okay.

2 BY MR. RATNER:

3 Q This is the prior written notice after the  
4 meeting, correct?

5 A Correct.

6 Q Okay. What was the proposal at number 2?

7 A CCPS did not propose occupational therapy as  
8 a related service.

9 Q Okay. So I just want to make sure I have the  
10 chronology correct and see if we can reach an agreement  
11 on this. Okay?

12 Do you agree with me that an OT assessment  
13 was ordered at the February meeting and the Parents  
14 consented to it?

15 And I really don't want to have to go back to  
16 the documents every time. I'm just trying to make a  
17 clear record. If you don't remember, we can go back to  
18 it.

19 A I would say I need to look. Do you remember  
20 what day it was?

21 Q Let's move on. Do you know why CCPS refused  
22 to waive the IEP meeting after Mrs. REDACTED already told  
23 you that they did not intend to return to Chesterfield  
24 County Public Schools?

25 A Because an evaluation was completed, the team

1 needed to put together -- we always want the input and  
2 participation of parents at a team meeting to hear what  
3 the occupational therapist had to say because she's the  
4 expert that provided that evaluation to REDACTED. And so  
5 number 3 of this PWN indicates that math aids were  
6 included in this IEP as an accommodation to include  
7 graph paper and number alignment aids, and I believe  
8 that was a result of our discussion.

9 Q Were you aware that REDACTED was already  
10 receiving that accommodation and she was using graph  
11 paper at that time?

12 MS. OWENS: I'm going to object. Because he's  
13 implying something that is not in evidence.

14 MR. RATNER: I asked if she was aware.

15 MS. OWENS: Are you aware that she was using  
16 it. And I don't think that's been offered as  
17 evidence in this case. That's your opinion.

18 MR. RATNER: Was she aware? Yes or no.  
19 That's a question.

20 THE HEARING OFFICER: All right. I'll allow  
21 her to say yes or no.

22 THE WITNESS: I cannot recall, but I can look  
23 in the old IEP --

24 THE HEARING OFFICER: That's your answer --  
25 oh, but you can do what?

1 MR. RATNER: Not necessary.

2 MR. ANDRIANO: She said she could look at the  
3 old IEP. To see if there was an accommodation in  
4 there.

5 THE HEARING OFFICER: I thought it was  
6 something about graph paper.

7 You said, one more minute.

8 MR. RATNER: Okay. So I'm finished. Thank  
9 you very much.

10 THE HEARING OFFICER: Thank you.

11 Do you wish to cross this witness?

12 MS. OWENS: Yes, ma'am. But I would like a  
13 short break, please.

14 THE HEARING OFFICER: Yeah, go ahead. Let's  
15 take a 5-minute break. So we can dismiss this  
16 witness but reserve her if anyone wants to.

17

18 (Break taken.)

19

20 THE HEARING OFFICER: Let's move forward then  
21 with the cross-exam.

22

23 CROSS-EXAMINATION

24 BY MS. OWENS:

25 Q Thank you. Good afternoon, Ms. Pettiway. I

1 just have a couple of follow-up questions for you since  
2 you provided your direct examination with Mr. Ratner.

3 You have been qualified as an expert witness.  
4 If I could direct your attention to School Board  
5 Exhibit Number 69.

6 Are you familiar with this document?

7 A Yes.

8 Q And what is it?

9 A My resume.

10 Q And you testified earlier that during the  
11 2019-2020 and 2020-2021 school year you were a special  
12 education coordinator at Old Hundred Elementary School,  
13 correct?

14 A Correct.

15 Q Could you describe your experiences within  
16 special education prior to 2019-2020 school year?

17 A I was also a special education coordinator at  
18 another school in Chesterfield County, Maraguerite  
19 Christian. I was also a special education teacher at  
20 several other schools in Chesterfield County.

21 Prior to that I was a special education  
22 teacher in Fulton County, Georgia.

23 Q I just want to go back to your previous  
24 experience as a special education coordinator.

25 How many years were you a special education

1 coordinator at, I think you said, Maraguerite middle?

2 A Maraguerite Christian.

3 Q Christian. I'm sorry.

4 A For three years.

5 Q And before that you were a special education  
6 teacher?

7 A Correct.

8 Q How long were a special education teacher,  
9 just the number of years?

10 A Twenty.

11 Q And before becoming a special education  
12 teacher, did you have any other experience in  
13 education?

14 A I worked with the Auburn University Summer  
15 Camp with students and also worked for social services  
16 with families.

17 MS. OWENS: Okay. Ms. Freeman, I would like  
18 to have Exhibit Number 69 -- School Board Exhibit  
19 Number 69 admitted into evidence.

20 THE HEARING OFFICER: Any objection from you?

21 MR. RATNER: No objection.

22 THE HEARING OFFICER: Okay. What was that?

23 SB-69?

24 MS. OWENS: Yes, ma'am.

25 THE HEARING OFFICER: Is accepted into

1 evidence.

2 MS. OWENS: Thank you.

3

4 (School Board Exhibit No. 69 admitted.)

5

6 BY MS. OWENS:

7 Q And could you also describe your licensure  
8 through the Virginia Department of Education?

9 A I'm certified and licensed in general  
10 education K through 6 and special education K through  
11 12.

12 Q Okay. Thank you very much, Ms. Pettitway.

13 Now let's turn directly to REDACTED. You  
14 provided testimony earlier that you participated in an  
15 IEP meeting for REDACTED in -- on April 10, 2020, correct?

16 A Correct.

17 Q And if I could direct your attention to  
18 School Board Exhibit Numbers 5 through 7.

19 And would you agree that Exhibit Number 5 is  
20 the meeting notice for the IEP meeting that was  
21 scheduled for April 20th?

22 A Correct.

23 Q Okay. And the parent received a copy of the  
24 notice?

25 A Correct.

1 Q And you testified earlier that she did not --  
2 that the parents did not participate in the IEP meeting  
3 on April 20, 2020, correct?

4 A Correct.

5 Q And if I could direct your attention to  
6 School Board Exhibit Number 7.

7 Do you recall how many times you provided  
8 notice of the IEP meeting?

9 A Three, as noted on the PWN.

10 Q And could you tell us the dates on which the  
11 notice of the IEP meeting was provided?

12 A April 16, 2020, April 19, 2020 and April 20,  
13 2020.

14 Q And so would you agree that the Parent didn't  
15 participate in the IEP meeting, but the Parents had an  
16 opportunity to participate in the IEP meeting?

17 A Yes.

18 Q And you also were asked questions about the  
19 service limits that were proposed in this April 20 IEP.  
20 So I'm going to ask you to take a look at page 7 of  
21 School Board Exhibit Number 6.

22 And is it also fair to say that this IEP  
23 meeting occurred during the period of the school  
24 closure?

25 A Yes.

1 Q Was any new instruction being provided during  
2 the period of the school closure?

3 A No.

4 Q Were IEP -- annual IEP meetings being held  
5 during this period of time?

6 A We held the meetings. The meetings were held  
7 during that time.

8 Q All right. And so, again, you were asked  
9 questions about the service minutes in this IEP,  
10 page 7.

11 For purposes of the 2020-2021 school year,  
12 could you describe what service minutes were being  
13 proposed by the IEP team for the 2020-2021 school year?

14 A Reading for five hours in the general  
15 education setting over two weeks and writing for three  
16 hours in the general education setting for every two  
17 weeks.

18 Q And were those service minutes proposed the  
19 same as or different from the service minutes from the  
20 previous IEP?

21 A From my recollection of what we talked about  
22 today, they were different.

23 Q Okay. And if I could direct your attention  
24 to School Board Exhibit Number 3.

25 So is it fair to say that Exhibit Number 3 is

1 the October 14, 2019, IEP for REDACTED?

2 A Yes.

3 Q And the service minutes that were proposed in  
4 this IEP were five hours for reading and five hours for  
5 writing; is that accurate?

6 A Correct.

7 Q Okay. And then as you testified, the service  
8 minutes for reading for the April 20, 2020, IEP was  
9 five hours for reading and three hours for writing; is  
10 that accurate?

11 A Correct.

12 Q And although -- strike that.

13 Did the Parent participate in the following  
14 IEP meeting?

15 A Yes.

16 Q Okay. And that meeting occurred on August 25  
17 of 2020, correct?

18 A Correct.

19 Q And did the Parent agree to this five hours  
20 of reading and three hours of writing services? And I  
21 could direct your attention to School Board Exhibit  
22 Number --

23 A Yes.

24 Q I'm sorry, School Board Exhibit Number 16 and  
25 on page 7 of that exhibit.

1 A Yes.

2 Q So, again, that's reading five hours, writing  
3 three hours, correct?

4 A Correct.

5 Q And if I could direct your attention to the  
6 last page of this exhibit, which is page 11 of 11.

7 Mrs. REDACTED provided consent to the  
8 implementation of that IEP, correct?

9 A Yes.

10 Q So the Parent agreed to the reduction in the  
11 minutes of writing?

12 A Yes.

13 Q Okay. So now let's talk -- you were also  
14 asked questions about the April 23rd, 2020, IEP  
15 amendment -- COVID IEP amendment, correct?

16 A Correct.

17 Q Okay. So let's turn now to School Board  
18 Exhibit Number 10.

19 Is it fair to say -- well, you testified  
20 earlier, Ms. Pettitway, that there was no new  
21 instruction being provided during the period of school  
22 closure, correct?

23 A Correct.

24 Q And so what was the purpose of -- what was  
25 happening after the period of school closure, the

1 continuity of learning or opportunity, could you  
2 describe that?

3 A So continuity of learning plan was in place  
4 where students would either use written packets or  
5 video, telephone, virtual platforms to revisit old  
6 concepts, facilitate interaction between teachers and  
7 students, but no students received new instruction,  
8 whether students with or without disabilities.

9 Q Because the school year had effectively  
10 ended?

11 A On March 16 of 2020.

12 Q And you were asked questions about a letter  
13 that you prepared that enclosed that April 23rd IEP,  
14 and I want to say it's the next to the last -- well,  
15 the last two pages actually of this exhibit, Exhibit  
16 Number 10.

17 A Yes.

18 Q Well, first, did you send this IEP and letter  
19 to the Parents of REDACTED?

20 A Yes.

21 Q Okay. And you were asked questions about  
22 waiving the IEP meeting.

23 Could a Parent have requested an IEP meeting  
24 if they had questions about the IEP amendment --

25 A Yes.

1 Q -- COVID amendment?

2 A Yes.

3 Q Okay. And is that documented in your letter  
4 to the Parents on April 27, 2020?

5 A Yes, it is.

6 Q Are you aware of whether the Parents  
7 requested an IEP meeting?

8 A I would have to look at emails, but if they  
9 did, I would have met, as is procedurally correct.

10 Q So is it fair to say, to the best of your  
11 knowledge, the Parents did not request an IEP meeting  
12 after receiving this amendment?

13 A Yes, that is correct.

14 Q Okay. You were also asked questions about an  
15 occupational therapy evaluation for REDACTED?

16 A Correct.

17 Q Let's look at School Board Exhibit Number 40.

18 Do you recall whether Mrs. REDACTED ever emailed  
19 you stating that she did not object to an OT evaluation  
20 for REDACTED?

21 A Yes.

22 Q Is that documented in School Board Exhibit  
23 Number 40?

24 A Correct.

25 Q And upon receiving the email from Mrs. REDACTED

1 indicating that she did not object to an OT evaluation,  
2 did you send the Parents a consent to evaluate form?

3 A Yes.

4 Q And is that on the second page of School  
5 Board Exhibit Number 40?

6 A Yes.

7 Q And did the Parent sign the consent to  
8 evaluate form for the occupational therapy?

9 A Yes.

10 Q And if I could direct your attention to  
11 School Board Number 41.

12 MS. OWENS: And, Ms. Freeman, I would ask that  
13 School Board Exhibit Number 40 and 41 be admitted  
14 into evidence.

15 THE HEARING OFFICER: Any objection?

16 MR. RATNER: No objection.

17 THE HEARING OFFICER: All right. 40 and 41  
18 are admitted.

19  
20 (School Board Exhibit Nos. 40 and 41  
21 admitted.)

22  
23 BY MS. OWENS:

24 Q Okay. So is this the consent to evaluation  
25 form that was signed by Mrs. REDACTED for the occupational

1 therapy evaluation?

2 A Yes.

3 Q And when is this consent dated?

4 A March 24, 2021.

5 Q And is that dated the same day as the email  
6 from Mrs. REDACTED indicating that she did not object to  
7 the occupational therapy evaluation?

8 A Yes.

9 Q You were asked questions about the  
10 occupational -- the reason for the IEP meeting.

11 Would you agree that related service  
12 providers do not make a determination as to the  
13 specific services that a student is going to receive?

14 A I would agree.

15 Q Is it fair to say that their -- that their  
16 evaluation reports provide merely recommendations for  
17 the IEP team to consider?

18 A Yes.

19 Q And if I could direct your attention to  
20 School Board Exhibit Number 43.

21 Is this the evaluation report -- occupational  
22 therapy evaluation report?

23 A Yes.

24 Q Were the -- do you recall what the  
25 recommendations were for any accommodations for REDACTED?

1 MR. RATNER: Ms. Freeman, if I could inquire  
2 briefly. I thought we went through this  
3 extensively that she wasn't able to read this  
4 report and didn't understand it and now  
5 Ms. Owens --

6 THE HEARING OFFICER: Wasn't this the IEP --

7 MS. OWENS: I never said she didn't understand  
8 the evaluation report. I asked her about the  
9 specific -- whether there were any recommendations  
10 in the report. Recommendations in the report would  
11 be considered by the IEP team.

12 THE HEARING OFFICER: Oh, this is the OT  
13 evaluation.

14 MR. RATNER: That's right. And I tried to ask  
15 questions about it, and Ms. Owens objected because  
16 she said this wasn't the proper witness to talk  
17 about what was in this evaluation. I said, it sure  
18 seemed like she was because she was on the IEP  
19 team, which seems to be what Ms. Owens is now  
20 conceding.

21 MS. OWENS: I disagree that that was the crux  
22 of your examination. I did not provide any  
23 objection to Ms. Pettitway being able to testify  
24 about an accommodation for a student that's been  
25 recommended, because an IEP team would absolutely

1 consider accommodations.

2 THE HEARING OFFICER: I'm going to note your  
3 exception. Because the other thing is we know this  
4 is going to come in, and I'm going to accept it  
5 into evidence.

6 MR. RATNER: I don't have an objection to it  
7 coming in.

8 THE HEARING OFFICER: Pardon?

9 MR. RATNER: I don't have an objection to it  
10 coming in. I'll wait and see what the questions  
11 are.

12  
13 (School Board Exhibit No. 43 admitted.)

14  
15 BY MS. OWENS:

16 Q And with regard to this occupational therapy  
17 evaluation, did the IEP team indeed consider the  
18 results of this evaluation?

19 A We did.

20 Q And would you agree that the team considered  
21 this report during the June 25, 2021, IEP meeting?

22 A Yes.

23 Q And if I could point you to School Board  
24 Exhibit Number 47.

25 A 47?

1 Q Yes, ma'am, 47.

2 And if you could look at page 2 of the IEP,  
3 was any information from the occupational therapy  
4 evaluation added to the IEP?

5 A Yes. In the Summary of Test History.

6 Q Is it important that the IEP team has the  
7 most relevant and updated information regarding a  
8 student?

9 A Yes.

10 Q And would the findings of an occupational  
11 therapy evaluation be relevant to include in a  
12 student's IEP?

13 A Yes.

14 Q So let's look -- could you describe where the  
15 additional information about the occupational therapy  
16 evaluation is in this document, June 25, 2021, IEP?

17 MR. RATNER: Are we on tab 47?

18 MS. OWENS: Tab 47.

19 MR. RATNER: Thank you.

20 THE WITNESS: It's in the test history.

21 BY MS. OWENS:

22 Q Page 2 of 14?

23 A Yes.

24 Q Do you see that?

25 A Page 2 of 14.

1 Q And my question to you is whether this  
2 information where it says information added during the  
3 IEP meeting on 6/25/2021, would you agree that this is  
4 information that the team added or that was added to  
5 the IEP during that June 25, 2021, IEP meeting?

6 A Yes.

7 Q Okay. Was the occupational therapist present  
8 for that IEP meeting?

9 A Yes, she was.

10 Q And were there any modifications proposed to  
11 the IEP based on the team's consideration --

12 MS. RATNER: Objection. This has now been  
13 asked and answered numerous times.

14 MS. OWENS: Well, I think there's been an  
15 indication that there was no need to have a  
16 meeting. There were modifications made to an IEP.  
17 That's certainly relevant as to --

18 MS. RATNER: She answered the same question  
19 when she answered about the graph paper.

20 MS. OWENS: I've never asked the witness this  
21 question.

22 THE HEARING OFFICER: I knew there was some  
23 mention of the graph paper, but I don't recall  
24 that -- it seems like there was an objection to  
25 that question, so there was --

1 MS. RATNER: Object to the repetitive  
2 testimony.

3 BY MS. OWENS:

4 Q So if I could direct you to page 9 of 14 of  
5 School Board Exhibit Number 47.

6 Was math aids added as an accommodation for  
7 REDACTED following -- or during the course of that IEP  
8 meeting?

9 A Yes, math aids to include graph paper and  
10 number alignment aids.

11 Q Was that accommodation specifically  
12 recommended by the occupational therapist?

13 A Yes.

14 MS. RATNER: Same objection. Asked and  
15 answered. They had expressed concerns about  
16 repetitive testimony.

17 THE HEARING OFFICER: Yes.

18 MS. RATNER: So we just would like to be  
19 treated the same.

20 THE HEARING OFFICER: I think it would be fair  
21 to treat you the same as they are.

22 So, yeah, I think that question about graph  
23 paper was answered before and whether or not the  
24 graph paper was added as an accommodation based on  
25 the OT examination. So let's just move on.

1 MS. OWENS: The School Board has -- that was  
2 my final question for the witness. Oh, I'm sorry.  
3 I would like to move School Board Exhibit Number 47  
4 into evidence.

5 THE HEARING OFFICER: Do you have any  
6 objection other than the graph paper?

7 MR. RATNER: No objection to any of it.

8 THE HEARING OFFICER: Okay. So 47 is -- which  
9 is the IEP dated 6/25/2021 is admitted to evidence.  
10

11 (School Board Exhibit No. 47 admitted.)  
12

13 MS. OWENS: I believe we admitted Exhibit  
14 Number 43 into evidence as well, which is the  
15 occupational therapy evaluation.

16 THE HEARING OFFICER: Yes, I have that  
17 circled. I have 40, 41. What happened to 42? Did  
18 I miss that?

19 MS. OWENS: No, ma'am. That one was not --

20 THE HEARING OFFICER: You just left that out.  
21 Okay.

22 MS. OWENS: Yes, ma'am. 41?

23 THE HEARING OFFICER: Yes, I have 41.

24 MS. OWENS: 40?

25 THE HEARING OFFICER: 40 and 41, yes.

1 MS. OWENS: One other thing, Ms. Freeman, I  
2 apologize, but there was also a prior notice for  
3 that June 25 IEP meeting, which is, I'm sorry,  
4 Exhibit Number 48.

5 THE HEARING OFFICER: 48?

6 MS. OWENS: Yes, ma'am.

7 THE HEARING OFFICER: Any objection?

8 MR. RATNER: No objection.

9 THE HEARING OFFICER: I'm sorry. You already  
10 said -- I missed that.

11 MR. RATNER: Nope, I hadn't said it yet.

12 THE HEARING OFFICER: Something to the effect  
13 of we don't object to the rest of them.

14

15 (School Board Exhibit No. 48 admitted.)

16

17 MS. OWENS: The School Board also -- I'm  
18 sorry, Ms. Freeman.

19 THE HEARING OFFICER: That's okay. I was  
20 trying to figure out exactly where we were going  
21 with the exhibits, and I thought that Parents' side  
22 had agreed to admit quite a bit more than they had.

23 So I just want to go back to. I think the  
24 last one was Exhibit 48.

25 MS. OWENS: Yes, ma'am.

1           And then we also discussed with this witness  
2           School Board Exhibit Number 5, which is the  
3           April 20 -- excuse me, April 10, 2020, meeting  
4           notice.

5           THE HEARING OFFICER: So you want to just give  
6           me the whole list of them?

7           MS. OWENS: Yes, ma'am. Thank you.

8           THE HEARING OFFICER: Let's start with 1 then,  
9           I guess.

10          MS. OWENS: We covered --

11          THE HEARING OFFICER: Do you want to go  
12          through all of them?

13          MS. OWENS: -- School Board Exhibit Number 3,  
14          School Board Exhibit Number 5.

15          THE HEARING OFFICER: Jump in if this is not  
16          your recollection.

17          MR. RATNER: I mean, they covered all these,  
18          and if I have an objection, I will speak up.

19          THE HEARING OFFICER: Next one?

20          MS. OWENS: School Board Exhibit Number 6 and  
21          School Board Exhibit Number 7.

22          MR. RATNER: And let me just say, Ms. Freeman,  
23          if you would like me to clearly state each time no  
24          objection.

25          THE HEARING OFFICER: No, you don't have to do

1           that. Just tell me if you object.

2           MS. OWENS: And I believe School Board Exhibit  
3           Number 10 was admitted into evidence. I believe  
4           that was.

5           THE HEARING OFFICER: So you go 7, then 10,  
6           right?

7           MS. OWENS: Yes, ma'am.

8           THE HEARING OFFICER: All right. Go ahead.  
9           Then you jumped to the 40's, I think -- or 16 -- 3  
10          was admitted. I thought 16 was part of that, too.

11          MS. OWENS: Yes, ma'am, 16 as admitted.

12          MR. ANDRIANO: That was previously admitted.

13          THE HEARING OFFICER: Then we jumped to all  
14          the ones in the 40's, right?

15          MS. OWENS: Yes.

16          Exhibit Number 17 is the prior written notice  
17          for the IEP.

18          THE HEARING OFFICER: Oh, okay. I missed  
19          that, I think.

20          MS. OWENS: So 16 and 17 together.

21          I believe that that was all, Ms. Freeman.

22          THE HEARING OFFICER: You-all done with the  
23          cross?

24          MS. OWENS: Yes, ma'am.

25          THE HEARING OFFICER: You're totally done.

1 Any more follow-up of Ms. Pettitway?

2 MR. RATNER: Yes, very briefly.

3 THE HEARING OFFICER: Okay.

4 MR. RATNER: Thank you.

5

6 REDIRECT EXAMINATION

7 BY MR. RATNER:

8 Q So let's stay where we were with the  
9 June 25th IEP. Had the school year ended by June 25,  
10 2021?

11 A Yes.

12 Q Okay. And REDACTED, we already established, her  
13 Parents had told you she wasn't coming back to  
14 Chesterfield County Public Schools, right?

15 A Correct.

16 Q So you added an accommodation to the IEP for  
17 a student you knew wasn't coming; is that correct?

18 A Our job as an IEP team is to devise a plan  
19 that is appropriate for the student based on the data.  
20 So based on the data that we had for REDACTED, we proposed  
21 the IEP on June 25, 2021.

22 Q Okay. When you knew she wouldn't be coming  
23 back to school, correct?

24 A She was still --

25 MS. OWENS: I object. Asked and answered.

1 MR. RATNER: She didn't answer it. She said,  
2 our job is to provide, you know, what we think is  
3 best.

4 THE HEARING OFFICER: She was responding to  
5 your question, though, about --

6 MR. RATNER: But she didn't answer it.

7 THE HEARING OFFICER: -- about whether or not  
8 you understood or something to that effect.

9 MR. RATNER: That's right. She didn't answer  
10 my question. That was my --

11 THE HEARING OFFICER: I kind of thought she  
12 did.

13 MR. RATNER: All right. That's fine.

14 THE HEARING OFFICER: But I will overrule you  
15 for now and just go on with that question.

16 BY MR. RATNER:

17 Q Thank you. So I think -- could you point  
18 me -- I'm sorry, you're a little more familiar with  
19 these documents than I am.

20 Was it on page 2 where you said the  
21 information from the OT assessment was added?

22 A Correct.

23 Q Okay. Is it accurate -- and, again, not a  
24 trick. Did all this information that was added come  
25 directly from the OT report?

1 A I would say yes.

2 Q Okay. So then what is the reason that you  
3 needed a meeting to add this?

4 THE HEARING OFFICER: What was that?

5 BY MR. RATNER:

6 Q Why would you need a meeting to add  
7 information that comes directly from the report that  
8 everybody had into this document?

9 A The IEP team was discussing the summary  
10 report. The occupational therapist, who is a  
11 professional in occupational therapy, was providing her  
12 summary. We, as a team, were a part of hearing the  
13 testing, her recommendations, a summary, and then our  
14 job is to put a summary into the test history so we  
15 have the most relevant information on REDACTED.

16 Q Okay. And it was Chesterfield County's  
17 position that couldn't have been done without a  
18 meeting; is that your testimony?

19 A Can you repeat?

20 MR. RATNER: I'll withdraw the question.

21 I think I have just one more.

22 School Board 16, but as I'm reviewing it, it  
23 may not come to me, so I may be done. I'm going to  
24 look over School Board 16 and see if I did have a  
25 question about it.

1 THE HEARING OFFICER: Okay. Sure.

2 BY MR. RATNER:

3 Q Yes, so we talked about in this IEP meeting  
4 there was a decision to reduce the writing hours from  
5 five every two weeks to three every two weeks.

6 Do you remember that testimony?

7 A Yes.

8 Q Okay. So can you -- what was the basis for  
9 that, either based on this IEP document or the prior  
10 written notice, the basis for that decision that REDACTED  
11 needed less service hours?

12 A Under functional performance, the teacher  
13 indicates REDACTED has shown progress in writing this year,  
14 her grade had improved, she's comfortable with the  
15 accommodations of the Chromebook and taking notes using  
16 Google slides.

17 Q I'm so sorry, I just want to make sure I'm  
18 looking at the right place. So what page are you on?

19 A Page 3 of 11 at the top.

20 Q Okay. She's shown progress in her writing  
21 this year. Her first nine weeks writing prompt grade  
22 was a 76, C; is that correct?

23 MS. OWENS: That's not the only part of that  
24 paragraph.

25 MR. RATNER: No, I just want to make sure I'm

1 in the right place.

2 THE WITNESS: Yes.

3 BY MR. RATNER:

4 Q Because this is before school has even  
5 started, right? This is now -- or in September of  
6 2020, right, she signs it, the meeting was in August?

7 A I think it referenced the IEP before that.

8 Q I'm on tab 16. It says document date  
9 8/25/20.

10 A One minute. I'm there.

11 Q Okay. So this is at the beginning of the  
12 school year, correct?

13 A Yes. Based on the information from the end  
14 of the school year IEP.

15 Q So that's what I'm getting at. This is the  
16 time when school was virtual, right?

17 A 8/25?

18 MS. OWENS: School year hadn't started yet.

19 MR. RATNER: Ms. Freeman.

20 MS. OWENS: I just want to make sure that  
21 we're -- that we are all on the same page because  
22 you said during the time that school was virtual,  
23 and that would not be an accurate representation.  
24 This was over the summer.

25 MR. RATNER: Well, she signed it on 9/25/2020.

1 MS. OWENS: That wasn't the question. That  
2 wasn't the question. But go ahead and proceed,  
3 Mr. Ratner. I didn't want the witness to be  
4 confused about the question that you posed because  
5 you asked if that was during virtual and this was  
6 during the summer.

7 THE HEARING OFFICER: Wasn't it during summer?

8 BY MR. RATNER:

9 Q Well, I don't know when exactly, but my point  
10 was that in March of 2020 you've testified that schools  
11 closed, correct?

12 A Correct.

13 Q Was there any in-person instruction from  
14 March 2020 through the start of the next school year?

15 A No.

16 Q Okay. You're aware that REDACTED struggled  
17 during the virtual environment, correct?

18 MS. OWENS: Object to the extent that now  
19 we're exceeding the scope of cross-examination.

20 THE HEARING OFFICER: It seems like we've  
21 already talked about this.

22 MR. RATNER: Right. I'm sorry. This, again,  
23 I asked her what was the basis for reducing the  
24 hours. She said it was improvement in writing.  
25 And I'm trying to figure out when that improvement

1 in writing occurred. Because it was in, I guess,  
2 in fourth grade and then they went virtual.

3 THE HEARING OFFICER: Then they went virtual,  
4 and then -- there was that time period when it was  
5 all virtual, and then there would have been summer,  
6 I presume.

7 BY MR. RATNER:

8 Q Right. So when was the improvement in the  
9 writing?

10 A I would have to refer to her last report card  
11 to look at that.

12 Q Okay.

13 A Do you have a document?

14 Q If you give me a minute. So which report  
15 card are you looking for? End of fourth grade?

16 A Yes.

17 Q That would be tab 13.

18 THE HEARING OFFICER: What was that tab?

19 MR. RATNER: 13. School Board 13.

20 THE HEARING OFFICER: Okay.

21 THE WITNESS: I misspoke. It says writing  
22 prompt grade, not report card grade.

23 BY MR. RATNER:

24 Q Okay. I'm so sorry. What are you talking  
25 about now?

1           A    So it's a writing prompt.  So they write  
2           prompts during the nine-week period.

3           Q    Okay.  For which nine weeks was it?  That's  
4           what I'm trying to understand.

5           A    First nine weeks of fourth grade.

6           Q    The first nine weeks of fourth grade?

7           A    Let me read.

8           Q    Again, where are you reading?

9           A    Page 3 of 11.

10          Q    Okay.

11          A    Wait.

12               MS. OWENS:  Of the August 25 IEP?

13               THE WITNESS:  Yes.

14   BY MR. RATNER:

15           Q    So when was the writing progress that REDACTED  
16           demonstrated that caused the team to decide on or  
17           around August 25, 2020, to reduce her IEP services from  
18           five hours to three hours every two weeks for writing?

19           A    During the previous year, which was fourth  
20           grade.

21           Q    Okay.  When she didn't finish the full year,  
22           correct?

23           A    Correct.

24           Q    The school was closed?

25           A    Right.

1 Q So the last grade she had was in the third  
2 quarter?

3 A Correct.

4 MR. RATNER: That's all the questions I have.

5 THE HEARING OFFICER: I'm sorry, I missed the  
6 answer. Did you get the answer to what --

7 MR. RATNER: She said, Yes, that's  
8 correct[sic].

9 THE HEARING OFFICER: To?

10 MR. RATNER: That the progress -- well, let  
11 me -- I don't want to mischaracterize it.

12 THE HEARING OFFICER: The previous year, which  
13 was fourth grade?

14 THE WITNESS: Correct.

15 THE HEARING OFFICER: Okay.

16 Does anyone have any additional questioning of  
17 this witness? And she's a joint witness, if I  
18 recall correctly.

19 MS. OWENS: Do I have an opportunity for  
20 recross?

21 THE HEARING OFFICER: Yes but --

22 MS. OWENS: I just have maybe two questions.

23 THE HEARING OFFICER: Go ahead.

24

25

RECROSS-EXAMINATION

1 BY MS. OWENS:

2 Q So let's -- Ms. Pettaway, if you could look  
3 at School Board Exhibit Number 16, Mr. Ratner asked you  
4 questions about page 3 of 11.

5 A Yes.

6 Q And if I can have you look at the top of  
7 page 3 of the August 25, 2020, IEP and then also take a  
8 look at the April 20, 2020, IEP.

9 THE HEARING OFFICER: What was the last one  
10 you said?

11 MS. OWENS: April 20, 2020, IEP, School Board  
12 Exhibit Number 6.

13 BY MS. OWENS:

14 Q And it's page 3 of 11?

15 A Yes.

16 Q Would you agree that the paragraph that you  
17 referenced at the top of page 3 of School Board Exhibit  
18 16, which is the August 25 IEP, the same language was  
19 used during the April 20, 2020, IEP?

20 A Correct.

21 Q So is it fair to say that the IEP team  
22 considered data or information from REDACTED's performance  
23 during the fourth grade school year before the school  
24 closure?

25 A Correct.

1 MS. OWENS: Thank you. No further questions.

2 THE HEARING OFFICER: Any follow-up?

3 MR. RATNER: I mean, it could go on  
4 ad infinitum, so I'm just going to be finished.

5 THE HEARING OFFICER: Are you sort of  
6 finished?

7 MR. RATNER: Oh, yes.

8 THE HEARING OFFICER: Okay. So we'll meet  
9 again tomorrow at 9:00.

10

11 (Hearing adjourned at 5:03 p.m.)

12

13

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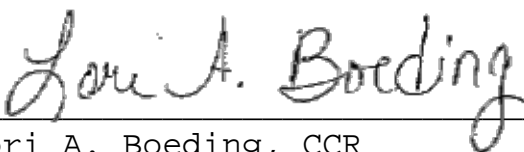
25

1 COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

2 I, Lori A. Boeding, CCR, Notary Public in and for  
3 the Commonwealth of Virginia at Large, and whose  
4 commission expires August 31, 2024, do certify that I  
5 was the court reporter at the aforementioned  
6 proceedings and that the foregoing is a true, correct,  
7 and full transcript to the best of my knowledge and  
8 ability of the proceedings herein.

9 I further certify that I am neither related to  
10 nor associated with any counsel or party to this  
11 proceeding, nor otherwise interested in the event  
12 thereof.

13 Given under my hand and notarial seal at  
14 Richmond, Virginia, this 3rd day of April 2022.

15  
16  
17 

18 \_\_\_\_\_  
19 Lori A. Boeding, CCR  
20 Notary Registration No. 239861  
21 Commonwealth of Virginia at Large  
22  
23  
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