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# Transcript of Due Process Hearing - Day 1

**Date:** February 27, 2019

**Case:** Fauquier County Public Schools adv **REDACTED**, In Re:

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COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF EDUCATION  
Office of Dispute Resolution and  
Administration Services

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IN RE: DUE PROCESS HEARING

For **REDACTED** .

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Hearing - VOLUME 1 of 2  
Before Frank G. Aschmann, Hearing Officer  
Warrenton, Virginia  
February 27, 2019  
9:53 a.m.

Job No.: 236472  
Pages: 1 - 396  
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1 Hearing held at the offices of:

2

3 Warrenton Community Center

4 430 East Shirley Avenue

5 Warrenton, Virginia 20186

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7 Pursuant to Notice, before Donald E. Lane, II,

8 Digital Court Reporter.

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A P P E A R A N C E S

ON BEHALF OF THE PARENTS OF **REDACTED** :

ADAM VAN SCOYOC

JEFF NANNI

**REDACTED**

**REDACTED**

**REDACTED**

**REDACTED**

ON BEHALF OF FAUQUIER COUNTY PUBLIC SCHOOLS:

NICOLE S. CHEUK, ESQUIRE

SANDS ANDERSON, PC

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E X H I B I T S

PLAINTIFF/SCHOOL	MKD	RCD
All Exhibits (Stipulated)	(Premarked)	13

1 P R O C E E D I N G S

2 HEARING OFFICER ASCHMANN: I know I had  
3 motions about witnesses, so I think we should take  
4 that up first. Was it your motion?

5 MS. CHEUK: Yes, sir. Do you prefer --  
6 can I sit or do you prefer that I stand?

7 HEARING OFFICER ASCHMANN: Oh, you don't  
8 have to stand if you don't want to. If you somehow  
9 feel more comfortable up there, go ahead.

10 MS. CHEUK: As you can see in my  
11 objections --

12 HEARING OFFICER ASCHMANN: Pardon?  
13 Pardon?

14 MR. SCOYOC: Should we close the door?

15 HEARING OFFICER ASCHMANN: It's an open  
16 hearing. If we get too much noise, we will.

17 MR. SCOYOC: Sorry. Sorry to interrupt.

18 HEARING OFFICER ASCHMANN: No, that's  
19 okay. But, you know, people are free to come and  
20 go if they want. It was your request that it be an  
21 open hearing. If you have changed your mind, we  
22 can shut the door and keep people out.



1 MS. CHEUK: That's fine.

2 HEARING OFFICER ASCHMANN: Okay. Sorry.  
3 Please proceed.

4 MS. CHEUK: That's all right.

5 Yes. Mr. Hearing Officer, I filed  
6 objections to various exhibits based on lack of  
7 foundation, authentication, relevance to this  
8 hearing and move to exclude the witnesses I listed  
9 in this filing mainly due to the fact that many of  
10 them were not at the eligibility meetings held over  
11 the last year, and, therefore, you know, the IDEA  
12 does not require an eligibility team to include all  
13 individuals that have ever had contact with a  
14 student. IDEA can properly rely on a composed  
15 eligibility team that's been composed in accordance  
16 with the regulation, and, therefore, Witnesses 1,  
17 3, 13, 14, 15, 19, 22, 7, 9, 11, 17, 18, and 24, we  
18 would ask that they be excluded from this hearing.

19 We'd also ask exclusion of the Witness  
20 No. 27 by reason that he's never met REDACTED. He's  
21 never reviewed his records. He has no specific  
22 firsthand knowledge regarding REDACTED's eligibility,

1 which is the single issue for this hearing.

2 As for the exhibits, do you want me to go  
3 through each one of those?

4 HEARING OFFICER ASCHMANN: No, no, no.  
5 I'd like to hear the response.

6 MR. NANNI: Okay. While we can say --  
7 again, what we're going to show as we go along  
8 here, Adam, as a parent has been -- his role has  
9 been diminished throughout eligibility. He has the  
10 right to bring in witnesses into an IEP meeting,  
11 into an eligibility meeting, that he feels has  
12 knowledge of REDACTED and REDACTED's right to special  
13 education and his challenges in the classroom.

14 All the people listed -- for instance,  
15 Mrs. Wines, Witness No. 24, she plays a crucial  
16 role in REDACTED's education daily, and she has  
17 attended IEP meetings. She may not have attended  
18 an eligibility meeting, but she had input. Under  
19 IDEA, the teacher's input is crucial to determining  
20 eligibility.

21 HEARING OFFICER ASCHMANN: Well, it may  
22 be, but one of the issues that we have to be clear

1 on here today and what I had asked both parties to  
2 do before is focus your case, because there is only  
3 one issue, and it's REDACTED's eligibility. His IEPs  
4 are not at issue today. So I don't --

5 MR. NANNI: In determining eligibility,  
6 you must look, according to IDEA, at the IEP when  
7 you're reevaluating.

8 HEARING OFFICER ASCHMANN: Well, first,  
9 he has to be eligible, and then he gets an IEP.

10 MR. NANNI: For reevaluation.

11 HEARING OFFICER ASCHMANN: So, at this  
12 point in time, we're really only looking at his  
13 eligibility, not any issue surrounding his IEP. So  
14 I hope we can stay focused on the issue of  
15 eligibility and not particular issues within an  
16 IEP. Are you understanding what I'm saying?

17 MR. NANNI: I am understanding what  
18 you're saying. What I'm trying to express is that  
19 that the team that made up this IEP understands  
20 REDACTED's challenges in the classroom, which would  
21 then establish eligibility.

22 HEARING OFFICER ASCHMANN: Right. And

1 that's -- that is exactly the issue we're looking  
2 at. I'm not going to exclude any witnesses at this  
3 point, but I will again reiterate that this case  
4 needs to stay focused, because I have seen a lot of  
5 material -- I did something I don't always do,  
6 which was review the exhibits in advance here, just  
7 to get a feel for this, because I was concerned  
8 about it, is there appears to be a lot of material  
9 that is irrelevant. And I don't want to spend two  
10 days listening to things that aren't going to help  
11 me make the decision about eligibility, which is  
12 the one question I have to deal with.

13 So, again, I want everybody to try to  
14 stay focused on that. You know, prior  
15 negotiations, prior offers, disputes between the  
16 parties, these are not relevant. What's relevant  
17 is **REDACTED**'s situation, his condition, and does he  
18 meet the criteria to be eligible under IDEA, which,  
19 quite frankly, is pretty simple. Does he have a  
20 disability and does that disability interfere with  
21 his ability to make progress in school? So we need  
22 to stay focused on that.

1           So, at this point, I'm going to deny your  
2 motion, but I can tell you that, you know, exhibits  
3 is a different thing. We'll have to go through  
4 those one by one. I guess this is going to be a  
5 slow process, no mass moving in of exhibits unless  
6 the parties can agree on that, but you have already  
7 said you have objections.

8           Witnesses, again, I'm not going to be at  
9 all tolerant with irrelevant material or cumulative  
10 material. We're going to move on if witnesses come  
11 forward that don't have anything to contribute to  
12 the issue of eligibility. I just want to be real  
13 clear with that. I don't mean to be rude to  
14 anyone, but I -- we just don't have time to spend  
15 dealing with things that are irrelevant to the  
16 actual issue of eligibility. Okay?

17           MR. NANNI: Sure. Of course.

18           HEARING OFFICER ASCHMANN: All right.

19           MS. CHEUK: Can I -- in that vein, can I  
20 ask a question then? Because they have not  
21 objected to any of our exhibits, can we offer our  
22 exhibits into evidence all at once or are you --

1 HEARING OFFICER ASCHMANN: Well, that's  
2 always my preferred way. It makes it much simpler,  
3 quicker, and more efficient. Did you have  
4 objections to the school's exhibits?

5 MR. NANNI: No, we're fine.

6 HEARING OFFICER ASCHMANN: All right.

7 MS. CHEUK: Okay. Mr. Hearing Officer,  
8 could you please admit exhibits --

9 HEARING OFFICER ASCHMANN: I'll admit all  
10 the school's exhibits --

11 MS. CHEUK: Thank you.

12 HEARING OFFICER ASCHMANN: -- in masse.

13 MS. CHEUK: Into the record. Thank you  
14 very much.

15 (All School exhibits were admitted.)

16 HEARING OFFICER ASCHMANN: And if you  
17 have specific objections, I guess we'll raise those  
18 as we go because they're going to try to admit  
19 them, I suppose.

20 MS. CHEUK: Okay.

21 HEARING OFFICER ASCHMANN: Unless -- you  
22 can make some compromise. If you need a moment to

1 discuss it, I'll be more than happy to give you  
2 that chance because it will make things go a lot  
3 faster if we move exhibits in all at once. I can  
4 tell you that, generally, I favor admission, and  
5 then it's just how much weight I give to them. But  
6 it's your case. You tell me what you want to do.

7 MS. CHEUK: I'm happy -- well, I'm not  
8 happy, but I'll object to each one as we get to it  
9 then, as they attempt to admit them.

10 HEARING OFFICER ASCHMANN: Okay. Were  
11 there any further preliminary motions or issues to  
12 raise?

13 MR. NANNI: Just one quick thing. I will  
14 be -- I do have to leave to pick up REDACTED from  
15 school at 3 p.m., so I'm advocating presenting.  
16 Adam will have to take over for himself at that  
17 time.

18 HEARING OFFICER ASCHMANN: Okay. I  
19 guess. You know, the way I do it, you can have  
20 either person do it. You just can't do tag-team.  
21 No two-at-once or --

22 MR. NANNI: Right. We don't plan on

1 doing two-at-once, but I have -- there's no other  
2 option.

3 HEARING OFFICER ASCHMANN: Yes. And I  
4 don't see us stopping at 3:00 either so...

5 MR. NANNI: Correct.

6 HEARING OFFICER ASCHMANN: Okay. With  
7 that said, is there any opening statements?

8 MS. CHEUK: Yes.

9 HEARING OFFICER ASCHMANN: Please.

10 OPENING STATEMENT ON BEHALF OF THE SCHOOL DIVISION

11 MS. CHEUK: Mr. Aschmann, this case, as  
12 you have just explained, is about one issue:  
13 [REDACTED]'s continued eligibility for specific  
14 education services. The school division will be  
15 offering testimony and evidence to you during this  
16 hearing about all the steps it has taken and why we  
17 don't think that [REDACTED] is eligible.

18 We're also going to tell you about how  
19 [REDACTED]'s guardian and caregiver have made it  
20 impossible for the parties to reach any agreement  
21 regarding [REDACTED]'s education. The truth is, we  
22 shouldn't be here at all, but we only got here



1 after exhaustive efforts to resolve the  
2 disagreements.

3 Last January, a properly convened  
4 eligibility team met to consider [REDACTED]'s continued  
5 eligibility for special education services during  
6 his tri-annual review. The team properly  
7 determined him no longer eligible based on sound  
8 data and evaluations, teacher input, classroom  
9 performance, and after considering input from the  
10 guardian, Mr. Van Scoyoc and caregiver, Mr. Nanni.  
11 The guardian did not consent to terminating  
12 services.

13 And over the course of the last year, the  
14 school division has attempted to reach an agreement  
15 with the parent about [REDACTED]'s IEP in order to  
16 continue providing him an appropriate education  
17 rather than take the extreme step of filing for a  
18 due process hearing. Agreement simply couldn't  
19 happen and it isn't for lack of trying.

20 The evidence will show that, since the  
21 eligibility determination last January, there have  
22 been five IEP meetings, three eligibility meetings,

1 one mediation, two independent evaluations, various  
2 other school evaluations and observations, six VDOE  
3 complaints, one OCR complaint, and still, there's  
4 no agreement between the guardian and the school  
5 division on whether [REDACTED] remains eligible for  
6 special education under the IDEA. In regard to all  
7 those complaints filed, only one sub-issue on one  
8 VDOE complaint has required corrective action by  
9 the school division.

10 In addition, FCPS attempted to resolve an  
11 untenable situation by offering the consent of  
12 private placement and even a transfer to a  
13 different middle school to no avail, and as you  
14 have already seen in their filings in this case,  
15 the guardian is planning to argue that those  
16 attempts to resolve the disagreement somehow mean  
17 that the school division actually does believe  
18 [REDACTED] is eligible. Nothing is further from the  
19 truth.

20 At all eligibility meetings held over the  
21 last year, the team came to the same conclusion:  
22 There is no reliable data that ED, autism, or OHI

1 is having an adverse impact on [REDACTED]'s learning and  
2 requires that he receive specialized instruction.

3 [REDACTED]'s guardian is going to rely on an  
4 independent evaluation from the Kellar Center to  
5 establish that [REDACTED] is eligible, but that report  
6 relies largely and almost exclusively on input from  
7 the caregiver and [REDACTED]'s guardian, who are biased  
8 and simply looking for a label. In contrast, you  
9 will see in the record and hear testimony today  
10 that FCPS's data and [REDACTED]'s teachers simply do not  
11 corroborate the conclusions made in that report or  
12 the behavior being described by the guardian and  
13 caregiver.

14 They are also going to rely on an  
15 independent observation of [REDACTED] that took place  
16 over the course of one school day this year, in  
17 which was heavily contradicted by the school social  
18 worker that accompanied that observer at the  
19 December eligibility meeting.

20 What about [REDACTED]? How is he doing during  
21 all of this? Well, first of all, all of the FCPS  
22 witnesses you will hear from will testify that he's

1 a great kid, and despite all of this noise  
2 surrounding his education, [REDACTED] received all As  
3 and Bs for the first semester that ended on January  
4 7th, including a math class one grade level above  
5 where he should be. He participated on the  
6 cross-country team and in the school play.

7 Does [REDACTED] have some difficulties with  
8 peer interaction? Sure. Does [REDACTED] have some  
9 difficulties with attention and organization?  
10 Sure. But quite frankly, what middle school boy  
11 doesn't?

12 And the critical question, the only  
13 question, is do any of these difficulties make him  
14 eligible under the criteria and require specialized  
15 instruction? Not in the opinion of the eligibility  
16 team.

17 And did their IEP report even recommend  
18 specialized instruction? No, it did not. Does his  
19 current annual IEP include specialized instruction?  
20 No, it does not.

21 So what does his IEP include then?  
22 Goals, accommodations, consult services, and

1 counseling. Indeed, Mr. Van Scoyoc and Mr. Nanni  
2 have insisted on including 21 accommodations in  
3 [REDACTED]'s IEP that, in the opinion of [REDACTED]'s  
4 teachers that see him every day, are hindering him  
5 and may even have led to a few disciplinary  
6 incidents this year.

7 You'll also hear testimony that [REDACTED]'s  
8 IEP attempted to wean [REDACTED] from some of those  
9 accommodations that they believe are not  
10 appropriate for a middle school setting, that are  
11 often refused by [REDACTED], and that cause him some  
12 amount of anxiety, both because of the teachers'  
13 legal obligation to offer that each day and because  
14 of the pressure at home regarding whether or not  
15 they were offered.

16 You'll hear testimony that [REDACTED] made an  
17 overall positive appearance at the eligibility  
18 meeting convened just a couple of months ago  
19 wherein -- I'm paraphrasing, but he stated the  
20 school could not be doing anything differently.  
21 This year is much better than last year because he  
22 has more friends and more people to work with and

1 he feels pretty good.

2 It can't be overstated that this hearing  
3 is absolutely the last resort for FCPS. It does  
4 not look for these kinds of opportunities, and it  
5 makes a great effort to conciliate disagreements  
6 with families to avoid being in this position. But  
7 here we are.

8 At the end of this hearing, Mr. Aschmann,  
9 FCPS will be asking that you sustain the decision  
10 of [REDACTED]'s eligibility team, that he is no longer  
11 eligible for specific education services, and  
12 terminate his eligibility. In addition, FCPS  
13 requests that you order his referral to a 504  
14 committee to consider whether a 504 plan may be  
15 appropriate for him. Thank you.

16 OPENING STATEMENT ON BEHALF OF STUDENT [REDACTED]

17 MR. NANNI: Okay. Mr. Aschmann, let me  
18 start with Mr. Van Scoyoc is not here by choice.  
19 He has been forced to defend the special education  
20 rights of [REDACTED]. [REDACTED] has been  
21 clinically diagnosed autism spectrum disorder,  
22 emotional disability, ADHD, and anxiety disorder.

1 Any child with these disorders faces challenges  
2 daily, especially in a school setting. The data  
3 collected indicates a substantial negative impact  
4 on [REDACTED]'s educational experience.

5 From classroom to physical education to  
6 extracurricular activities, he has been challenged  
7 all year, and he has needed aids and assistance in  
8 each one. As we review the data, teacher input,  
9 and parent input, any responsible parent would  
10 defend [REDACTED]'s access to special education.

11 I want to read a -- and I can actually  
12 enter it as an exhibit. I want to read a letter of  
13 guidance from the Department of Education dated --

14 HEARING OFFICER ASCHMANN: Please don't.  
15 You can just submit the letter.

16 MR. NANNI: Okay. I want to pull out a  
17 few pieces of it.

18 HEARING OFFICER ASCHMANN: That would be  
19 fine.

20 MR. NANNI: That's what I'm doing. I'm  
21 not going to read the whole letter.

22 HEARING OFFICER ASCHMANN: No, please

1 don't read --

2 MR. NANNI: It's from the letter. I just  
3 want to pull out a couple of pieces here.

4 REDACTED is a gifted student and, correctly  
5 so, he was in an above math class, an honors math  
6 class that he actually would have failed if not for  
7 the corrective order from the Virginia Department  
8 of Education. A gifted student may still need  
9 specific and explicit instruction on how to  
10 reliably record homework, assignments, organize  
11 information into class notes, start a multi-stage  
12 project, write more efficiently, or respond to  
13 challenges to his or her attention or concentration  
14 in day-to-day activities. It is not the  
15 responsibility of the student to -- with a  
16 disability, to request (indiscernible).

17 In addition, even if a properly  
18 identified student with ADHD has been determined to  
19 have a disability, may not always receive required  
20 services. There is an obligation to make -- that  
21 the school -- schools have been found to make  
22 inappropriate decisions about the regular special



1 education, related aids and services, or  
2 supplementary aids.

3 And that's what -- I think that's what we  
4 are here to show, that -- and that's why we have  
5 called these witnesses, these teachers. They will  
6 clearly outline **REDACTED**'s challenges that relate to  
7 having a disability which, obviously, would mean  
8 he's eligible. And that's it.

9 HEARING OFFICER ASCHMANN: All right.

10 MS. CHEUK: What exhibit was that?

11 MR. NANNI: I don't have it as an  
12 exhibit. We can enter it as an exhibit.

13 MS. CHEUK: I would object to that  
14 because it wasn't five days ago when it was  
15 required to be.

16 HEARING OFFICER ASCHMANN: Well, he --  
17 but that was his opening statement.

18 MR. NANNI: That's my opening statement.

19 HEARING OFFICER ASCHMANN: It's not  
20 evidence.

21 MS. CHEUK: I'm sorry?

22 MR. NANNI: I have copies for everyone.

1 HEARING OFFICER ASCHMANN: That's his  
2 opening statement. It's not evidence.

3 MS. CHEUK: Oh, okay.

4 HEARING OFFICER ASCHMANN: Would you like  
5 to call a witness?

6 MS. CHEUK: Yes. I'd call Mr. Randy  
7 Corp, director of Special Education.

8 RANDY CORPENING,  
9 the witness, after having been duly sworn, was  
10 examined and testified to as follows:

11 HEARING OFFICER ASCHMANN: You may  
12 proceed.

13 DIRECT EXAMINATION

14 MS. CHEUK: Good morning, Mr. Corpening.  
15 Could you please identify yourself.

16 MR. CORPENING: My name is Randy  
17 Corpening. I'm the special education director in  
18 Fauquier County Schools.

19 MS. CHEUK: And what is your educational  
20 background?

21 MR. CORPENING: I have an associate's  
22 degree in criminal justice, a bachelor's in

1 history, a master's in special education or  
2 children with emotional disability and specific  
3 learning disability, and I have a master's in  
4 administration of K-12.

5 MS. CHEUK: Do you hold a Virginia  
6 teaching license?

7 MR. CORPENING: I do.

8 MS. CHEUK: And what are the endorsements  
9 on your license?

10 MR. CORPENING: Special education for  
11 emotional disability, special education for  
12 specific learning disability, and administration of  
13 K-12.

14 MS. CHEUK: In volume 2 of the black  
15 binders, Exhibit 55, is that your curriculum vitae?

16 MR. CORPENING: It is.

17 MS. CHEUK: Could you please tell  
18 Mr. Aschmann a little bit about your professional  
19 background.

20 MR. CORPENING: I have been --

21 HEARING OFFICER ASCHMANN: Are you trying  
22 to qualify him as an expert?

1 MS. CHEUK: Yes, sir.

2 HEARING OFFICER ASCHMANN: Do you have  
3 any objection?

4 MR. NANNI: Absolutely not. No  
5 objection.

6 MS. CHEUK: I move to qualify  
7 Mr. Corpening as an expert in special education.

8 HEARING OFFICER ASCHMANN: So recognized.

9 MS. CHEUK: Mr. Corpening, what are your  
10 responsibilities as the director of Special  
11 Education for Fauquier County Public Schools?

12 MR. CORPENING: I oversee all the  
13 specific education services in Fauquier County for  
14 about 1600 students, oversee the programming for  
15 those students with about 160 special ed teachers  
16 and about 150 instructional assistants. I oversee  
17 all the speech and language services, occupational  
18 therapy, physical therapy, and any other related  
19 services, such as music therapy or any other thing  
20 that we do in special ed. And I'm also the 504  
21 compliance officer for Fauquier County.

22 MS. CHEUK: Do you know **REDACTED**?

1 MR. CORPENING: I do.

2 MS. CHEUK: Do you know his legal  
3 guardian Adam Van Scoyoc?

4 MR. CORPENING: I do.

5 MS. CHEUK: Do you know his caregiver,  
6 Mr. Nanni?

7 MR. CORPENING: Yes.

8 MS. CHEUK: Have you reviewed REDACTED  
9 REDACTED's student file?

10 MR. CORPENING: I have.

11 MS. CHEUK: And, generally, how have you  
12 been involved in his education in Fauquier County  
13 Public Schools?

14 MR. CORPENING: I became involved when it  
15 became a more contentious issue at Coleman  
16 Elementary School. And that was in the -- when  
17 REDACTED was in fourth grade.

18 MS. CHEUK: Have you ever observed REDACTED  
19 in the school setting?

20 MR. CORPENING: Informally, I have gone  
21 in and watched twice.

22 MS. CHEUK: Okay. Could you please tell

1 Mr. Aschmann a little bit about [REDACTED] and his  
2 educational needs.

3 MR. NANNI: I object. It was an informal  
4 setting.

5 MS. CHEUK: You're objecting with what he  
6 said?

7 MR. NANNI: I'm objecting to an informal  
8 opinion of [REDACTED] in the classroom. We have  
9 classroom observations.

10 MS. CHEUK: He's an expert.

11 HEARING OFFICER ASCHMANN: Please don't  
12 argue between each other.

13 MR. NANNI: Okay.

14 HEARING OFFICER ASCHMANN: If you have  
15 something to say, address me.

16 MS. CHEUK: Okay.

17 MR. NANNI: Okay.

18 HEARING OFFICER ASCHMANN: His  
19 objection's overruled.

20 MS. CHEUK: Could you please tell  
21 Mr. Aschmann a little bit about [REDACTED] and his  
22 educational needs.

1 MR. CORPENING: [REDACTED] is currently in the  
2 sixth grade at Marshall Middle School, takes  
3 advanced math class, and he's also in honors  
4 English class. He has a current IEP with 21  
5 accommodations with no direct services.

6 MS. CHEUK: Okay. Could you look at the  
7 binder in front of you. Are you familiar with the  
8 documents included in that binder?

9 MR. CORPENING: I am.

10 MS. CHEUK: From what source or sources  
11 did the documents come?

12 MR. CORPENING: These come from a variety  
13 of sources, mostly from [REDACTED]'s education on  
14 record, including his evaluations, his discipline  
15 record, health records, and there's also some  
16 emails of records from Mr. Nanni and Mr. Van  
17 Scoyoc.

18 MS. CHEUK: Did you review these  
19 documents in advance of today's hearing?

20 MR. CORPENING: I have.

21 MS. CHEUK: And did you have a hand in  
22 preparing any of them?

1 MR. CORPENING: I did.

2 MS. CHEUK: Specifically, look to Exhibit  
3 1. Do you recognize that document?

4 MR. CORPENING: This is a request for due  
5 process hearing.

6 MS. CHEUK: Who prepared it?

7 MR. CORPENING: I did.

8 MS. CHEUK: And who signed it on the  
9 fourth page?

10 MR. CORPENING: I did.

11 MS. CHEUK: It appears you did not check  
12 the box for mediation. Have the parties ever  
13 attempted mediation before convening for this  
14 hearing?

15 MR. CORPENING: Yes.

16 MS. CHEUK: Were those efforts  
17 successful?

18 MR. CORPENING: No.

19 MS. CHEUK: And despite not reaching  
20 agreement in mediation with Mr. Van Scoyoc, did the  
21 school division continue to attempt to resolve  
22 issues with him?



1 MR. CORPENING: Yes.

2 MS. CHEUK: And how did you do so?

3 MR. CORPENING: I called Mr. Van Scoyoc,  
4 along with Mr. Finn, and we discussed other  
5 options, a way to reconcile and to come to an  
6 agreement. In fact, we even talked about starting  
7 over again with our conversations, and we discussed  
8 some other options to solve the issues, including a  
9 possibility of an outplacement at Kings Academy in  
10 Culpeper.

11 HEARING OFFICER ASCHMANN: Counselor?

12 MS. CHEUK: Yes, sir.

13 HEARING OFFICER ASCHMANN: The long  
14 history of disputes between the parties really  
15 isn't going to help me decide --

16 MS. CHEUK: Okay.

17 HEARING OFFICER ASCHMANN: -- his  
18 eligibility.

19 MS. CHEUK: Okay. I'm speaking directly  
20 to their argument that somebody offered placement.

21 HEARING OFFICER ASCHMANN: And I  
22 understand that, but what I tried to convey and

1 what I want to make clear to everybody is  
2 prehearing negotiations and attempts to create  
3 settlement are completely irrelevant to --

4 MS. CHEUK: Your decision?

5 HEARING OFFICER ASCHMANN: -- whether  
6 REDACTED's eligible or not.

7 MS. CHEUK: Okay.

8 HEARING OFFICER ASCHMANN: And,  
9 generally, this is material which is not  
10 evidentiary in a hearing on any kind of damages or  
11 anything else, and I don't want to spend a lot of  
12 time -- you know, I understand there's been a long  
13 dispute.

14 MS. CHEUK: Okay.

15 HEARING OFFICER ASCHMANN: That's pretty  
16 clear. And the details of it aren't going to help  
17 me decide whether he's eligible or not.

18 MS. CHEUK: Understood.

19 HEARING OFFICER ASCHMANN: I'd like to go  
20 over all that quickly, if we're going to do so.

21 MS. CHEUK: Okay. That's fine.

22 HEARING OFFICER ASCHMANN: Or minimize

1 it. And it's going to go both ways.

2 MR. NANNI: Of course.

3 HEARING OFFICER ASCHMANN: This -- what  
4 you guys argued about before, it's irrelevant.  
5 What offers, settlements, mediations doesn't affect  
6 whether **REDACTED**'s eligible or not.

7 MR. NANNI: Got it.

8 MS. CHEUK: But, to be clear, did you  
9 personally ever offer placement to **REDACTED**?

10 MR. CORPENING: I did not.

11 MS. CHEUK: Okay. And do you have the  
12 authority to even do that?

13 MR. CORPENING: I do not.

14 MS. CHEUK: Mr. Corpening, I'm going to  
15 ask you questions about the issues that gave rise  
16 to your request, but please tell the hearing  
17 officer, at a general level, why you initiated this  
18 hearing.

19 MR. CORPENING: Not to violate your --

20 HEARING OFFICER ASCHMANN: No, go ahead.

21 MR. CORPENING: We have had -- I have  
22 been a special education director for more than 12

1 years and a special administrator for almost 20. I  
2 have never filed a due process against a parent and  
3 never would have dreamed of. I have always been  
4 able to resolve issues with parents with like  
5 issues where students have been found not eligible  
6 for the eligibility team and parents have declined  
7 to provide consent. We have continued to write  
8 IEPs, we have continued to hold eligibilities, and  
9 the child has progressed through school.

10 However, in this case, we have been  
11 unable to do that. The constant bombardment of  
12 State complaints, the constant emails and threats  
13 to teachers, administrators has significantly  
14 impacted --

15 MR. NANNI: Can I object to "threats to  
16 teachers"? I don't understand where that's coming  
17 from. Is there any proof of --

18 HEARING OFFICER ASCHMANN: You'll get an  
19 opportunity to cross-examine the witness.

20 MR. NANNI: Thank you.

21 MR. CORPENING: That has led us to an  
22 impassable situation where we have been unable to

1 reach an agreement. And my concern is it is  
2 affecting [REDACTED], and that's really why we're here,  
3 is our concerns for [REDACTED] as well. So this is why  
4 we have filed the due process hearing.

5 MS. CHEUK: Mr. Corpening, I'd like to  
6 discuss -- well, since you mentioned State  
7 complaints, could we quickly look at Exhibits 58  
8 and 59.

9 MR. NANNI: I'm going to object if we're  
10 going to go back to our continued discussion of who  
11 is right and who's wrong.

12 HEARING OFFICER ASCHMANN: There's no  
13 question right at the moment. You can only object  
14 when there's a question.

15 MS. CHEUK: I'll just ask: Could you  
16 identify Exhibits 58 and 59. Are those the VDOE  
17 letters of finding and OCR letters of finding for  
18 the complaints that you just mentioned?

19 MR. CORPENING: Yes, they are.

20 MS. CHEUK: Thank you.

21 Mr. Corpening, I'd like to discuss  
22 [REDACTED]'s educational background briefly prior to

1 January of 2019, if we can just start -- Exhibit 2,  
2 if you could just briefly identify what those  
3 documents are.

4 MR. CORPENING: These are REDACTED's initial  
5 enrollment into Fauquier County on September 3rd,  
6 2013.

7 MS. CHEUK: Okay. Please look at Exhibit  
8 3. Oh, I'm sorry; I didn't mean to cut you off.

9 MR. CORPENING: That's all right. And  
10 the second one is an enrollment dated June 1st,  
11 2017.

12 MS. CHEUK: Okay. Please look at Exhibit  
13 3. What are the documents appended there?

14 MR. CORPENING: This is an additional  
15 eligibility referral.

16 MS. CHEUK: Okay. And prior to that  
17 referral, to your knowledge, had REDACTED ever  
18 received special education services in a public  
19 school division?

20 MR. CORPENING: Not to my knowledge.

21 MS. CHEUK: And what assessments was --  
22 what assessments were FCPS authorized to conduct at

1 that time?

2 MR. CORPENING: Educational, social  
3 cultural, psychological, classroom observation.

4 MS. CHEUK: And what was the date on that  
5 again?

6 MR. CORPENING: April 21st, 2015.

7 MS. CHEUK: Please look at Exhibit 4.

8 MR. CORPENING: This is an eligibility  
9 group summary along with accompanying prior written  
10 notice.

11 MS. CHEUK: Okay. And did you attend  
12 this eligibility?

13 MR. CORPENING: I did not.

14 MS. CHEUK: And what was the date for  
15 that meeting?

16 MR. CORPENING: June 4, 2015.

17 MS. CHEUK: And what did the eligibility  
18 team determine, according to the prior written  
19 notice?

20 MR. CORPENING: They found REDACTED eligible  
21 for special education services as a student with  
22 other health impaired.

1 MS. CHEUK: Okay. And is it your  
2 understanding that the guardian and caregiver  
3 agreed with that determination?

4 MR. CORPENING: It is.

5 MS. CHEUK: Please look at Exhibit 5.

6 MR. CORPENING: This is an IEP, an  
7 individual education program.

8 MS. CHEUK: And according to pages 51 to  
9 52, what did this IEP include -- or what was the  
10 date on that IEP? I apologize.

11 MR. CORPENING: March 9th of 2017.

12 MS. CHEUK: Okay. And according to pages  
13 51 and 52, what did this IEP include by way of  
14 accommodations?

15 MR. CORPENING: REDACTED would be allowed  
16 movement breaks; allowed shortened assignments; 50  
17 percent to demonstrate mastery; be allowed to type  
18 writing assignments using word processor software  
19 as well as written responses to classwork; give an  
20 opportunity to revise work; will have verbal and  
21 tag time (ph) prompts to return to task; access to  
22 a fidget in the classroom, access to a privacy



1 folder; access to quiet environment for testing;  
2 access to self-regulation tools, such as  
3 highlighters, colored pens, and checklists; will  
4 have an additional day to complete classwork,  
5 projects, and writing assignments; will have  
6 assistance with organization; will have close  
7 proximity to instruction; will have larger tasks  
8 broken down into smaller tasks; grades will be  
9 based on performance of the curriculum and not on  
10 the academic standards. That's it.

11 MS. CHEUK: And what areas of need did  
12 the goals address on pages 53 to 54?

13 MR. CORPENING: Behavior, attention and  
14 organization.

15 MS. CHEUK: And, finally, is specialized  
16 instruction included in this IEP?

17 MR. CORPENING: It is not.

18 MS. CHEUK: On page 55, SLD consult is  
19 listed. That's not specialized instruction?

20 MR. CORPENING: It is not.

21 MS. CHEUK: What is it?

22 MR. CORPENING: Consult is a special

1 education teacher consulting with general education  
2 teachers to make sure that all the accommodations  
3 are clearly understood, data collection tools are  
4 provided, and any other assistance that the teacher  
5 may need with providing instruction to the student.

6 MS. CHEUK: And did Mr. Van Scoyoc  
7 consent to the implementation of this IEP?

8 MR. CORPENING: He did.

9 MS. CHEUK: And you just testified that  
10 the date on the annual IEP was March 9th, 2017.

11 MR. CORPENING: Correct.

12 MS. CHEUK: So would this have been the  
13 annual IEP in place when [REDACTED]'s eligibility team  
14 met in January of 2018?

15 MR. CORPENING: Yes.

16 MS. CHEUK: Thank you.

17 Please look at Exhibit 6. What is this  
18 document?

19 MR. CORPENING: It's an IEP addendum.

20 MS. CHEUK: And what grade was [REDACTED] in?

21 MR. CORPENING: Fifth.

22 MS. CHEUK: Did Mr. Van Scoyoc consent to

1 the implementation of this addendum?

2 MR. CORPENING: He did not.

3 MS. CHEUK: Turning to Exhibit 7, what is  
4 this document?

5 MR. CORPENING: It's another addendum.

6 MS. CHEUK: And what is the date on this  
7 addendum?

8 MR. CORPENING: September 1st, 2017.

9 MS. CHEUK: Okay. And according to the  
10 prior written notice on pages 102 to 103, what  
11 action did FCPS take?

12 MR. CORPENING: FCPS proposed an addendum  
13 to REDACTED's IEP as written, proposed this action  
14 with his IEP team, have included two new goals to  
15 master skills of using a highlighter and a  
16 test-taking strategy goal for assessments. New  
17 accommodations were also added: Repeating  
18 directions back from the teacher for understanding.  
19 Service time for counseling was added in the  
20 addendum because REDACTED was struggling to sustain  
21 friendships.

22 MS. CHEUK: Is counseling considered

1 specialized instruction?

2 MR. CORPENING: No.

3 MS. CHEUK: Did general education or  
4 Section 5 (indiscernible) students have access to  
5 receive counseling?

6 MR. CORPENING: Yes, they did.

7 MS. CHEUK: And on page 101, did Mr. Van  
8 Scoyoc consent to its implementation?

9 MR. CORPENING: He did.

10 MS. CHEUK: Please look at Exhibit 8.  
11 What are those documents?

12 MR. CORPENING: It's another IEP  
13 addendum.

14 MS. CHEUK: And what is the date of this  
15 document?

16 MR. CORPENING: September 19th, 2017.

17 MS. CHEUK: And on the last two pages of  
18 this exhibit are the prior written notice -- is the  
19 prior written notice. In paragraph 2, why did FCPS  
20 propose this addendum?

21 MR. CORPENING: Proposed to take this  
22 action to add the calculator accommodation in class

1 for assignments, tests, and quizzes and homework;  
2 accommodation for a one-time opportunity to retake  
3 tests that [REDACTED] scores less than 75 percent has  
4 been reverted back to the original IEP  
5 accommodation of 80 percent.

6 MS. CHEUK: Okay. So if [REDACTED] scores  
7 less than 80 percent on any test, he can retake it?

8 MR. CORPENING: Yes, according to the  
9 prior written notices that there was an attempt by  
10 the IEP team to reduce it to 75 but Mr. Van Scoyoc  
11 did not agree to that.

12 MS. CHEUK: And on page 122, did Mr. Van  
13 Scoyoc consent to its implementation?

14 MR. CORPENING: He did.

15 MS. CHEUK: So with this addendum and the  
16 addendum in Exhibit 7 and the IEP from Exhibit 5,  
17 were those the relevant IEP documents in place for  
18 [REDACTED]'s eligibility in January 2018?

19 MR. CORPENING: They were.

20 MS. CHEUK: Thank you.

21 Please look at Exhibit 9. What are these  
22 documents?

1 MR. CORPENING: This was Behavior  
2 Intervention Plan and the prior written notice was  
3 attached to it.

4 MS. CHEUK: And what does that Behavior  
5 Intervention Plan generally provide?

6 MR. CORPENING: Specific support for a  
7 student with a specific behavior, whether it be an  
8 instructional behavior such as organization or  
9 behavior such as a disciplinary-level behavior.

10 MS. CHEUK: And according to page 126,  
11 paragraph 2, for what reason did FCPS propose a  
12 BIP?

13 MR. CORPENING: This action is to help  
14 **REDACTED** with work completion and timeline tasks in  
15 the classroom.

16 MS. CHEUK: Okay. And according to the  
17 BIP developed on page 134, was a safety plan needed  
18 for **REDACTED**?

19 MR. CORPENING: No.

20 MS. CHEUK: When would a safety plan be  
21 appropriate?

22 MR. CORPENING: If the student was at

1 risk of harming himself or others or  
2 (indiscernible) such as trying to leave the  
3 building or something along those lines.

4 MS. CHEUK: Okay. Please look at Exhibit  
5 10. What are these documents?

6 MR. CORPENING: This is a sign-in sheet  
7 for an IEP and prior written notice.

8 MS. CHEUK: And according to the prior  
9 written notice on page 139, next to "other," why  
10 did the team meet?

11 MR. CORPENING: To discuss parents'  
12 concerns in math.

13 MS. CHEUK: And what did the IEP team  
14 decide?

15 MR. CORPENING: That the IEP team refused  
16 to change the location of testing in the area of  
17 math as requested by the parent; refused additional  
18 service minutes in the IEP related to math; then  
19 the general education classroom, as requested by  
20 the parent; proposed to continue to collect data  
21 related to the Behavior Intervention Plan; and to  
22 reconvene in December.

1 MS. CHEUK: So specific under No. 2, did  
2 the BIP appear to be helping [REDACTED] complete  
3 assignments and stay on task?

4 MR. CORPENING: Refused to alter the  
5 testing environment requested by the parent due to  
6 the assurance of the general education classroom's  
7 quiet environment. [REDACTED] is successful under the  
8 current accommodations that's been witnessed by the  
9 teachers, the principal, and assistant principal on  
10 several occasions. They refused to increase  
11 special education services. I'm sorry; I'm trying  
12 to get to what your question was.

13 His current grade of a B has improved in  
14 completing assignments on time/task, which  
15 addresses the current disability of ADHD. Since  
16 implementing the Behavior Intervention Plan, he has  
17 been successful.

18 MS. CHEUK: Okay. Thank you.

19 What could Mr. Van Scoyoc have done if he  
20 disagreed with FCPS's decision that day?

21 MR. CORPENING: He could have requested  
22 mediation or filed a due process complaint.



1 MS. CHEUK: And did he do so?

2 MR. CORPENING: He did not.

3 MS. CHEUK: Please look at Exhibit 11.  
4 What are the documents appended there?

5 MR. CORPENING: This was an eligibility  
6 child study meeting, the initial, to review  
7 documents and determine (indiscernible) to do  
8 evaluation.

9 MS. CHEUK: And so this was a meeting to  
10 discuss REDACTED's continued eligibility?

11 MR. CORPENING: Yes, and trying to  
12 review.

13 MS. CHEUK: Okay. What assessments did  
14 Mr. Van Scoyoc authorized FCPS to conduct?

15 MR. CORPENING: Educational,  
16 psychological, class observation, and a hearing  
17 screening.

18 MS. CHEUK: Please look at Exhibit 12.  
19 What are those documents?

20 MR. CORPENING: This is a sign-in sheet  
21 for an IEP meeting in which the parents were  
22 requesting pull-out/push-in services and review of

1 the Behavior Intervention Plan dated January 22,  
2 2018.

3 MS. CHEUK: And what action did FCPS  
4 propose to take according to prior written notice  
5 on page 149?

6 MR. CORPENING: FCPS proposed an  
7 occupational therapist screening and refused  
8 push-in/pull-out instruction in the IEP.

9 MS. CHEUK: And according to Section No.  
10 5, what information did FCPS use as a basis for the  
11 refusal to add special education instruction?

12 MR. CORPENING: Parent input, FCPS input  
13 in classwork, progress data were all taken into  
14 consideration at this IEP meeting.

15 MS. CHEUK: And, again, what could  
16 Mr. Van Scoyoc have done if he disagreed with that  
17 decision?

18 MR. CORPENING: Could have sought  
19 mediation or filed a due process hearing.

20 MS. CHEUK: And did he do so?

21 MR. CORPENING: He did not.

22 MS. CHEUK: Please look at Exhibit 13.

1 What are those documents?

2 MR. CORPENING: This is the same sign-in  
3 sheet and another prior written notice.

4 MS. CHEUK: What action did FCPS propose  
5 to take?

6 MR. CORPENING: Proposed to tweak the  
7 behavior plan to include transitions throughout the  
8 day.

9 MS. CHEUK: Okay. Turning to Exhibit 14,  
10 what are those documents included this there?

11 MR. CORPENING: This is an eligibility  
12 group summary.

13 MS. CHEUK: Did you attend this  
14 eligibility meeting?

15 MR. CORPENING: I did not.

16 MS. CHEUK: On page 159 of the exhibits,  
17 who attended?

18 MR. CORPENING: Angie Gum, the SPED  
19 supervisor; Wendy Swanson, the clinical social  
20 worker; Aney Massie, Gateways teacher; Ms. Carr,  
21 school counselor; Jeanette Saunders, special  
22 education teacher; Stephanie McCoy, general

1 education teacher; Patricia Apicella, the assistant  
2 principal; and Mr. Van Scoyoc.

3 MS. CHEUK: And is that a properly  
4 composed eligibility team under the IDEA?

5 MR. CORPENING: It is.

6 MS. CHEUK: And in preparing for this  
7 hearing, did you confer with anyone on that  
8 eligibility team about that meeting?

9 MR. CORPENING: Yes. Ms. Gum and I did.

10 MS. CHEUK: Have you reviewed the audio?

11 MR. CORPENING: I have.

12 MS. CHEUK: Looking at the eligibility  
13 summary on page 157, it says, "The team discussed  
14 the educational evaluation, psychological  
15 evaluation, and classroom observations." I'm just  
16 going to go quickly through those exhibits and have  
17 you identify them.

18 Exhibit 15, what is this document?

19 MR. CORPENING: This is the educational  
20 component for that evaluation.

21 MS. CHEUK: And could you please read the  
22 summary on page 169.

1 HEARING OFFICER ASCHMANN: He doesn't  
2 need to read --

3 MS. CHEUK: You don't want him to read  
4 it?

5 HEARING OFFICER ASCHMANN: I don't want  
6 anybody to read any documents.

7 MS. CHEUK: Okay.

8 HEARING OFFICER ASCHMANN: It's just -- I  
9 have read most of them, and what I haven't, I  
10 can -- just point me to it and I'll read it myself.

11 MS. CHEUK: Okay. Who completed this  
12 evaluation?

13 MR. CORPENING: Michael Gantley, the  
14 diagnostician (ph).

15 MS. CHEUK: On Exhibit 16, what is this  
16 document?

17 MR. CORPENING: The psychological  
18 evaluation.

19 MS. CHEUK: And who completed this  
20 evaluation?

21 MR. CORPENING: Dr. Cameron.

22 MS. CHEUK: Okay. And Exhibit 17, what

1 are these documents here?

2 MR. CORPENING: These are student  
3 operation -- student observations, classroom  
4 observations. One was conducted by the assistant  
5 principal, Ms. Apicella, and the other was by  
6 Ms. Swanson, the clinical social worker.

7 MS. CHEUK: And is it your understanding  
8 that Exhibits 15 through 17 were the relevant  
9 data -- in paper form, anyway -- that was  
10 considered at that eligibility meeting?

11 MR. CORPENING: It is.

12 MS. CHEUK: What, if any, other  
13 information was considered according to the prior  
14 written notice? This is back in Exhibit 14.

15 MR. CORPENING: I'm trying not to read  
16 it. Parent input, teacher input, all the  
17 evaluations.

18 MS. CHEUK: And what criteria did the  
19 eligibility team review?

20 MR. CORPENING: Other health impaired.

21 MS. CHEUK: And is the criteria worksheet  
22 on page 161 what the team worked from?

1 MR. CORPENING: Yes.

2 MS. CHEUK: The second-to-last question  
3 related to educational impact. Did the team  
4 determine that [REDACTED]'s ADHD characteristics impact  
5 his education?

6 MR. CORPENING: They said that poor  
7 executive functioning skills interfere with  
8 academics.

9 MS. CHEUK: But on page 162, how did the  
10 team answer the question regarding the need for  
11 special education?

12 MR. CORPENING: They checked no, due to  
13 they identified other health impaired students'  
14 needs for specially designed instruction were not  
15 there.

16 MS. CHEUK: And do all criteria need to  
17 be met prior to making a determination with regard  
18 to eligibility under OHI?

19 MR. CORPENING: Yes.

20 MS. CHEUK: Did [REDACTED] meet all the  
21 criteria?

22 MR. CORPENING: No.

1 MS. CHEUK: According to the prior  
2 written notice and your understanding of the  
3 meeting and your review of the audio recording, did  
4 Mr. Van Scoyoc request the team at that time to  
5 review any other eligibility criteria?

6 MR. CORPENING: He did not.

7 MS. CHEUK: And in the prior written  
8 notice, Exhibit 14 on page 163, could you please  
9 read aloud No. 1.

10 MR. CORPENING: "FCPS proposed that REDACTED  
11 is not eligible for special education. FCPS  
12 proposed that REDACTED be referred to the 504  
13 eligibility committee for consideration."

14 MS. CHEUK: Looking at page 159, did  
15 Mr. Van Scoyoc provide consent for that eligibility  
16 determination?

17 MR. CORPENING: He did not.

18 MS. CHEUK: So what situation did the  
19 school division find itself in on January 31st,  
20 2018?

21 MR. CORPENING: We often refer to this as  
22 a stay-put, so he continues to be eligible by the



1 last finding of the eligibility team, which is  
2 under health impaired, and we continue to write  
3 IEPs and provide services.

4 MS. CHEUK: Did FCPS provide Mr. Van  
5 Scoyoc a copy of his procedural safeguards?

6 MR. CORPENING: They did.

7 MS. CHEUK: And if Mr. Van Scoyoc  
8 disagreed with the eligibility team's  
9 determination, what could he have done?

10 MR. CORPENING: Could have filed a due  
11 process or asked for mediation.

12 MS. CHEUK: And if the school division  
13 wanted to move ahead with a termination of services  
14 for REDACTED, what could it have done?

15 MR. CORPENING: Filed a due process.

16 MS. CHEUK: And why didn't the school  
17 division decide to do that last January?

18 MR. CORPENING: We had never done that.  
19 As I said earlier, we were usually able to continue  
20 to provide other services and to come to agreement  
21 with parents.

22 MS. CHEUK: Okay. Please look at the

1 documents at Exhibit 18.

2 MR. CORPENING: This is a Behavior  
3 Intervention Plan.

4 MS. CHEUK: And what does this BIP  
5 require on page 185?

6 MR. CORPENING: "REDACTED will check in in  
7 the morning with his case manager to discuss his  
8 morning and get prepared for the day. Data check  
9 sheets will be sent home on a daily basis and  
10 reinforcers will be provided at home. Visual  
11 prompt by teacher to get back to task. Utilize a  
12 scheduled break every 30 minutes prompted by  
13 teacher. Teacher and REDACTED will address behavior  
14 chart at the end of each content class with REDACTED  
15 marking his behavior and teacher discussing and  
16 marking with REDACTED his behaviors and work  
17 completion. REDACTED will check in with his case  
18 manager at the end of the school day to discuss his  
19 day and give case manager his check-in sheet.  
20 REDACTED will be responsible for completing unfinished  
21 classwork or homework and return the next school  
22 day."

1 MS. CHEUK: Okay. Please look at Exhibit  
2 19. Have you seen these documents before?

3 MR. CORPENING: They are. This is a  
4 response to an IEE request, an individual education  
5 assessment -- evaluation.

6 MS. CHEUK: Did Mr. Van Scoyoc request an  
7 IEE?

8 MR. CORPENING: He did.

9 MS. CHEUK: And is it your understanding  
10 that he disagreed with FCPS psychological and  
11 educational evaluations?

12 MR. CORPENING: It is.

13 MS. CHEUK: Did FCPS provide the IEE?

14 MR. CORPENING: We did.

15 MS. CHEUK: Who conducted it?

16 MR. CORPENING: It was conducted by the  
17 Kellar Center in Fairfax.

18 MS. CHEUK: And did the school division  
19 agree to reconvene the eligibility team to consider  
20 that evaluation?

21 MR. CORPENING: We did.

22 MS. CHEUK: And when did you reconvene?

1 MR. CORPENING: After we got the report  
2 that summer.

3 MS. CHEUK: Let's look at Exhibit 20. Do  
4 you recognize this document?

5 MR. CORPENING: Yes.

6 MS. CHEUK: Did you write it?

7 MR. CORPENING: I did.

8 MS. CHEUK: And why did you send that?

9 MR. CORPENING: I sent it because of an  
10 email that Mr. Van Scoyoc said -- stating that  
11 **REDACTED** was not being provided services because he  
12 had been found ineligible, and this was to clarify  
13 that he would continue to remain eligible for  
14 special education and be continued to provide IEPs  
15 having reviews. And there was also a discussion  
16 about requirements in the instruction area that  
17 **REDACTED** would be required to participate in classroom  
18 instruction that Mr. Van Scoyoc disagreed with.

19 MS. CHEUK: Let's look to Exhibit 21.  
20 The middle email on page 199, was that Mr. Van  
21 Scoyoc's response to your letter?

22 MR. CORPENING: It is.

1 MS. CHEUK: And how would you describe  
2 its tenor?

3 MR. CORPENING: Demanding and incorrect.

4 MS. CHEUK: Would it be fair to say that  
5 this type of communication was typical of Mr. Van  
6 Scoyoc and Mr. Nanni?

7 MR. CORPENING: More Mr. Nanni than  
8 Mr. Van Scoyoc.

9 MR. NANNI: I object. What does this  
10 have to do with eligibility?

11 HEARING OFFICER ASCHMANN: Relevance?

12 MR. NANNI: I don't understand.

13 HEARING OFFICER ASCHMANN: You made your  
14 objection. She gets to respond.

15 MS. CHEUK: It was a response to a  
16 communication from Mr. Corpening specifically about  
17 eligibility.

18 MR. NANNI: It's about his IEP, I  
19 believe.

20 MS. CHEUK: No, the Exhibit 20 that  
21 Mr. Corpening just described relates to  
22 eligibility. And this was his response.

1 HEARING OFFICER ASCHMANN: Are we looking  
2 at 21 or have you switched?

3 MS. CHEUK: 21 is the email that  
4 responded to the letter in 20.

5 HEARING OFFICER ASCHMANN: Right. Okay.

6 MR. NANNI: It refers to an IEP, an  
7 instruction.

8 MS. CHEUK: I'm not going to argue. It  
9 just is.

10 HEARING OFFICER ASCHMANN: Let's just  
11 move on. It's okay.

12 MS. CHEUK: Let's look at Exhibit 22.  
13 What are the documents included there?

14 MR. CORPENING: This is an annual IEP  
15 meeting to discuss an annual IEP and transition to  
16 the middle school.

17 MS. CHEUK: Did Mr. Van Scoyoc attend  
18 this meeting?

19 MR. CORPENING: He did not.

20 MS. CHEUK: Did he consent to this IEP's  
21 implementation?

22 MR. CORPENING: He did not.

1 MS. CHEUK: Exhibit 23, do you recognize  
2 these documents?

3 MR. CORPENING: It's an occupational  
4 therapy evaluation and also an occupational therapy  
5 functional review.

6 MS. CHEUK: Did this evaluation call for  
7 specialized instruction or occupational therapy  
8 services?

9 MR. CORPENING: It did not.

10 MS. CHEUK: All right. Please look at  
11 Exhibit 24. What are these documents?

12 MR. CORPENING: This is a child study to  
13 consider reevaluation for autism.

14 MS. CHEUK: According to the middle of  
15 the page, on page 233, why was an evaluation  
16 requested?

17 MR. CORPENING: Apparently request for  
18 consideration for autism eligibility for REDACTED.

19 MS. CHEUK: And what evaluations did  
20 Mr. Van Scoyoc authorize on page 235?

21 MR. CORPENING: Social cultural,  
22 psychological, class observation.

1 MS. CHEUK: And turning to the prior  
2 written notice on the next page, No. 2, what was  
3 the reason for the proposal to evaluate?

4 MR. CORPENING: FCPS proposed this action  
5 because Parent had requested it and has a doctor's  
6 referral.

7 MS. CHEUK: Was the doctor's referral  
8 also a diagnosis of any kind?

9 MR. CORPENING: It is not.

10 MS. CHEUK: Let's look at Exhibit 25.

11 MR. CORPENING: This is our student  
12 dashboard where we collect student behavior data.

13 MS. CHEUK: And how many referrals did  
14 REDACTED receive during his fifth grade year,  
15 2017-2018?

16 MR. CORPENING: Three.

17 MS. CHEUK: And based on the first page,  
18 when was the last referral?

19 MR. CORPENING: February 23rd, 2018.

20 MS. CHEUK: Okay. Please turn to Exhibit  
21 26. What are these documents?

22 MR. CORPENING: This is a progress report



1 for the 2017-18 school year.

2 MS. CHEUK: And how many goals did [REDACTED]  
3 have?

4 MR. CORPENING: Four.

5 MS. CHEUK: Did [REDACTED] make progress at  
6 his goals?

7 MR. CORPENING: By the end of the -- end  
8 of this reporting period, he had mastered all of  
9 his goals.

10 MS. CHEUK: And is there any particular  
11 one that stands out to you in the narrative for May  
12 2018?

13 MR. CORPENING: Showing that [REDACTED] has  
14 done very well, even -- received 99 percent on his  
15 final writing assignment in fourth quarter. He  
16 shows that he's making progress across the board in  
17 science, math.

18 MS. CHEUK: And on page 2 of the progress  
19 report in the narrative next to May 2018, does it  
20 state whether or not [REDACTED] will require prompts  
21 with test-taking strategies?

22 MR. CORPENING: [REDACTED] has not required

1 any prompts using test-taking strategies during the  
2 fourth quarter.

3 MS. CHEUK: Who completed that progress  
4 report?

5 MR. CORPENING: Special ed case manager.

6 MS. CHEUK: And the last page of that  
7 exhibit, on page 250, what were REDACTED's final  
8 grades for 2017-2018?

9 MR. CORPENING: English, A; math, B;  
10 reading, A; science, A; social studies, B. And in  
11 art and music and physical education, he received 3  
12 out of 4, and then 4 out of 4 on the last of those  
13 two.

14 MS. CHEUK: Thank you.

15 Let's look at Exhibit 27.

16 MR. CORPENING: This is a health office  
17 visit report.

18 MS. CHEUK: And what is the date on that  
19 report?

20 MR. CORPENING: June 28th, 2018.

21 MS. CHEUK: And does this report include  
22 the entire school year?

1 MR. CORPENING: It does.

2 MS. CHEUK: And when did REDACTED last go to  
3 the nurse's office, according to the document?

4 MR. CORPENING: February 26, 2018.

5 MS. CHEUK: Please look to Exhibit 28.  
6 What are those documents?

7 MR. CORPENING: This is the eligibility  
8 group summary and accompanying documentation.

9 MS. CHEUK: Did you attend this  
10 eligibility?

11 MR. CORPENING: I did not.

12 MS. CHEUK: At the time -- well, in  
13 preparation for this hearing, have you had the  
14 opportunity to confer with anyone in attendance at  
15 that meeting?

16 MR. CORPENING: I have. I have spoken to  
17 Ms. Gum and Ms. Gohn.

18 MS. CHEUK: And have you reviewed the  
19 audio for that meeting?

20 MR. CORPENING: I have.

21 MS. CHEUK: Who attended that eligibility  
22 meeting?

1 MR. CORPENING: The assistant principal,  
2 Ms. Henson; Dr. Cameron, the school psychologist;  
3 Wendy Swanson, the school social worker; Shelby  
4 Gohn, SPED supervisor; Angie Gum, SPED supervisor;  
5 Ms. Landrum, the teacher; Mr. Van Scoyoc by phone;  
6 and Mr. Nanni.

7 MS. CHEUK: Is that a properly composed  
8 eligibility team?

9 MR. CORPENING: It is.

10 MS. CHEUK: Did the team discuss the  
11 evaluations authorized by Mr. Van Scoyoc?

12 MR. CORPENING: It does.

13 MS. CHEUK: And just to clear up, is  
14 there a discrepancy on the date for that  
15 eligibility summary?

16 MR. CORPENING: There is. The date on it  
17 has January 31st, but that meeting was actually  
18 held on the -- in June. The reason why is the  
19 teacher that -- the administrator did not reset  
20 the -- I'm sorry, it was July. July 10th -- did  
21 not reset the date and it defaults to the last  
22 eligibility meeting date.

1 MS. CHEUK: Okay.

2 MR. CORPENING: So that's a typo.

3 MS. CHEUK: Okay. Let's briefly go  
4 through the evaluations that -- as we did with the  
5 January 2018 eligibility meeting. Exhibit 31 --  
6 or, I'm sorry -- yeah, Exhibit 31. Is that the  
7 updated psychological?

8 MR. CORPENING: It is.

9 MS. CHEUK: And what is Exhibit 32?

10 MR. CORPENING: The updated social  
11 history.

12 MS. CHEUK: And Exhibit 33?

13 MR. CORPENING: Classroom observations.

14 MS. CHEUK: By who?

15 MR. CORPENING: Mr. Gantley, the  
16 diagnostician; Ms. Banks, the principal of Bradley  
17 Elementary School; and Mr. Nanni.

18 MS. CHEUK: And according to the  
19 eligibility summary on page 258, were all of those  
20 documents discussed at the meeting? Is it your own  
21 understanding that they were all discussed at the  
22 meeting?

1 MR. CORPENING: They were.

2 MS. CHEUK: Please look at Exhibit 29.

3 MR. CORPENING: This is a  
4 psychological -- or psycho-educational functioning  
5 report provided by Inova Kellar Center, and that  
6 was the individual education evaluation.  
7 Independent. I'm sorry.

8 MS. CHEUK: Have you reviewed it?

9 MR. CORPENING: I have.

10 MS. CHEUK: Who completed it? Who  
11 specifically?

12 MR. CORPENING: Dr. Giroux from Inova.

13 MS. CHEUK: And on page 24, does it make  
14 any diagnoses?

15 MR. CORPENING: Page 24, it does say  
16 diagnostic -- DSM-5 diagnostic codes of attention  
17 deficit disorder, combined presentation, mild  
18 autism spectrum disorder, requiring support without  
19 intellectual impairment and without language  
20 impairment, other specified anxiety disorder.

21 MS. CHEUK: And on pages 24 through 27,  
22 does it make recommendations?

1 MR. CORPENING: It does.

2 MS. CHEUK: With regard to IEP goals?

3 MR. CORPENING: More accommodations.

4 MS. CHEUK: And to address what kinds of  
5 issues?

6 MR. CORPENING: Organization.

7 MS. CHEUK: Does it recommend any  
8 specialized instruction?

9 MR. CORPENING: It does not.

10 MS. CHEUK: Is an eligibility team bound  
11 by an outside evaluation's conclusions?

12 MR. CORPENING: No. It's required to  
13 lawfully consider the evaluation.

14 MS. CHEUK: And is it your understanding  
15 that the eligibility team considered this  
16 evaluation at the eligibility meeting held on July  
17 10, 2018?

18 MR. CORPENING: They did.

19 MS. CHEUK: Thank you.

20 And going back to Exhibit 31, who  
21 prepared this document?

22 MR. CORPENING: Dr. Cameron.

1 MS. CHEUK: And what did it conclude?  
2 What did this updated psychological evaluation  
3 conclude about whether [REDACTED] is on the autism  
4 spectrum?

5 MR. CORPENING: These scores can be  
6 summed up concisely in all areas measured. [REDACTED]'s  
7 scores would not be typical for a child with  
8 Asperger's syndrome, which is the mild end of  
9 autism spectrum disorder.

10 MS. CHEUK: Did the team also discuss  
11 Dr. Cameron's January 2018 psychological at this  
12 eligibility meeting?

13 MR. CORPENING: Yes.

14 MS. CHEUK: Please look at Exhibit 32.  
15 You have already identified this document as well.

16 MR. CORPENING: This is the updated  
17 social-cultural report.

18 MS. CHEUK: And does the eligibility  
19 summary indicate that it was considered?

20 MR. CORPENING: It does.

21 MS. CHEUK: Please look at Exhibit 33.  
22 You have already identified these as observations



1 of **REDACTED** Were these done in the school setting?

2 MR. CORPENING: Correct.

3 MS. CHEUK: And does the eligibility  
4 summary indicate that these were considered at the  
5 meeting?

6 MR. CORPENING: It does.

7 MS. CHEUK: Turning back to Exhibit 28,  
8 what criteria did the eligibility team review at  
9 the July 10th, 2018, meeting?

10 MR. CORPENING: Autism and emotional  
11 disability.

12 MS. CHEUK: And according to the prior  
13 written notice, what did the eligibility team  
14 determine? It's on page 1 of the exhibit -- first  
15 page of the exhibit.

16 MR. CORPENING: "FCPS declines the need  
17 for special education services for **REDACTED**  
18 under the criteria of autism spectrum disorder and  
19 emotional disability."

20 MS. CHEUK: And according to No. 5 on  
21 page 257 of that same page, what did the team use  
22 as a basis for its determination?

1 MR. CORPENING: Updated social history,  
2 psychological education reports, three  
3 observations, diagnostician and principal of Bradley  
4 Elementary and Mr. Nanni; Kellar Center  
5 documentation included an IEE for disability ED and  
6 a private assessment for autism, cumulative folder  
7 review, clinic nurse log, and present materials  
8 from parents, including work samples, teacher logs,  
9 and parent/guardian input, which include medical  
10 findings were used in the basis of this refusal.

11 MS. CHEUK: Did Mr. Van Scoyoc agree with  
12 that determination?

13 MR. CORPENING: He did not.

14 MS. CHEUK: Did he submit a dissenting  
15 opinion?

16 MR. CORPENING: He did not.

17 MS. CHEUK: And based on the prior  
18 written notice summary, your understanding of that  
19 meeting, did Mr. Van Scoyoc request the team to  
20 review any other eligibility criteria?

21 MR. CORPENING: He did not.

22 MS. CHEUK: Did FCPS provide Mr. Van

1 Scoyoc a copy of his procedural safeguards?

2 MR. CORPENING: Yes.

3 MS. CHEUK: If he had disagreed with the  
4 eligibility team's determination, what could he  
5 have done?

6 MR. CORPENING: He could have asked for  
7 mediation or filed a due process.

8 MS. CHEUK: Did he do so?

9 MR. CORPENING: No.

10 MS. CHEUK: Did any member of the team  
11 attach a dissenting statement?

12 MR. CORPENING: No.

13 MS. CHEUK: And at that time, then, REDACTED  
14 remained eligible under what category?

15 MR. CORPENING: Other health impaired.

16 MS. CHEUK: Okay. And I'm not going to  
17 discuss the next few exhibits in depth, but just  
18 generally, Exhibits 34, 35, 36, 39, and 40, what do  
19 they all relate to?

20 MR. CORPENING: A series of attempts to  
21 reach an agreement for an IEP.

22 MS. CHEUK: And looking at Exhibit 37 --

1 MR. CORPENING: This is an assisted  
2 technology consult or evaluation.

3 MS. CHEUK: And what does it reveal about  
4 REDACTED's AT meetings?

5 MR. CORPENING: The A team determined  
6 that he would benefit from some technology, which  
7 included an iPad.

8 MS. CHEUK: And -- but did the evaluation  
9 recommend any special education services or  
10 specialized instruction?

11 MR. CORPENING: No, it did not.

12 MS. CHEUK: And turning to Exhibit 40,  
13 then, what are the documents appended there?

14 MR. CORPENING: It's blank.

15 MS. CHEUK: Oops. I can't hand you mine.

16 MS. CHEUK: Is yours blank?

17 MR. NANNI: No.

18 MS. CHEUK: Okay.

19 HEARING OFFICER ASCHMANN: You got  
20 shorted one.

21 MS. CHEUK: Can I --

22 MR. VAN SCOYOC: I'll let him use mine.

1 MS. CHEUK: All right. Thanks.

2 MR. NANNI: What exhibit are we on?

3 MS. CHEUK: 40.

4 MR. CORPENING: This is an IEP.

5 MS. CHEUK: Is this the current annual  
6 IEP in place for REDACTED right now?

7 MR. CORPENING: It is.

8 MS. CHEUK: And just for the hearing  
9 officer's benefit, I have included this as a color  
10 copy. There is red writing throughout this IEP.  
11 Could you explain that what is?

12 MR. CORPENING: That was intentional.  
13 Mr. Van Scoyoc and Mr. Nanni altered the proposed  
14 IEP. We were trying to get partial consent so we  
15 could start implementation of an IEP --

16 MR. NANNI: If I can just object for one  
17 second. That was actually our counsel, our  
18 attorney made those marks just so she could  
19 remember what we had spoken about when we came back  
20 to it.

21 MS. CHEUK: Okay. Are those red marks  
22 part of the IEP?

1 MR. CORPENING: Actually --

2 MR. NANNI: Which is acceptable, from  
3 what I understand.

4 HEARING OFFICER ASCHMANN: Please. Just  
5 a minute. When a question is asked, then you make  
6 an objection. You need to have a good basis for  
7 it.

8 MR. NANNI: I'm sorry.

9 HEARING OFFICER ASCHMANN: It's okay.  
10 You're not a lawyer.

11 MR. NANNI: Correct. I'm trying to --

12 HEARING OFFICER ASCHMANN: I'll cut you a  
13 little slack here.

14 MR. NANNI: I have a basis for it, I  
15 guess.

16 HEARING OFFICER ASCHMANN: Please listen.  
17 And so don't start telling me the answer to your  
18 objection.

19 MR. NANNI: Okay. Gotcha.

20 HEARING OFFICER ASCHMANN: You state, "I  
21 object" and why, and then she gets to respond.

22 MR. NANNI: I'm sorry.

1 HEARING OFFICER ASCHMANN: No, we just  
2 need to try to follow procedure so everybody is not  
3 arguing back and forth.

4 MR. NANNI: Sure. Gotcha. Thank you.

5 MS. CHEUK: Are the red notations part of  
6 REDACTED's IEP?

7 MR. CORPENING: I'm going to read the "I  
8 give permission to implement this IEP, including  
9 parents" and it's in red. FCPS did respond in a  
10 prior written notice and say that we would accept  
11 this IEP with the exception of what was in red.

12 MS. CHEUK: So currently, Fauquier County  
13 Public Schools is implementing this IEP --

14 MR. CORPENING: Yes.

15 MS. CHEUK: -- with the exception of the  
16 red marks?

17 MR. CORPENING: Correct.

18 MS. CHEUK: Okay. Thank you.

19 Does this annual IEP include  
20 specialized --

21 HEARING OFFICER ASCHMANN: We'll see if  
22 they shorted you any more.

1 MS. CHEUK: Same exhibit. Does this IEP  
2 include specialized instruction? Look on page 25  
3 of the IEP.

4 MR. CORPENING: No, it does not.

5 MS. CHEUK: And what areas of need do his  
6 goals address? And that begins on page 8 of the  
7 IEP.

8 MR. CORPENING: Organization,  
9 organization, organization, social skills, social  
10 skills, and social skills.

11 MS. CHEUK: Does it include  
12 accommodations?

13 MR. CORPENING: It does.

14 MS. CHEUK: And, mainly, in your opinion,  
15 to address what weaknesses?

16 MR. CORPENING: Organization.

17 MS. CHEUK: Now, because REDACTED's IEP team  
18 acknowledges weaknesses in organization and social  
19 skills, does it follow that FCPS believes him to  
20 be eligible for special education?

21 MR. CORPENING: No.

22 MS. CHEUK: Is the function of an IEP



1 team?

2 MR. CORPENING: IEP team is required to  
3 develop and write an IEP that's to be presented to  
4 the eligibility -- to the school for  
5 (indiscernible).

6 MS. CHEUK: For who?

7 MR. CORPENING: For the student.

8 MS. CHEUK: For the student. An eligible  
9 student; correct?

10 MR. CORPENING: Yes.

11 MS. CHEUK: And what is the function of  
12 an eligibility team?

13 MR. CORPENING: Eligibility team is to  
14 determine whether or not a child is eligible for  
15 special education.

16 MS. CHEUK: So flipping back to Exhibit  
17 38, what is this document?

18 MR. CORPENING: This is an office  
19 referral.

20 MS. CHEUK: And what is this date on this  
21 document?

22 MR. CORPENING: September 17, 2018.

1 MS. CHEUK: And looking to Exhibit 42?

2 MR. CORPENING: This is a confidential  
3 classroom observation report. This was provided  
4 through the IEE.

5 MS. CHEUK: So who requested an IEE?

6 MR. CORPENING: Mr. Van Scoyoc.

7 MS. CHEUK: And so this is an independent  
8 observation?

9 MR. CORPENING: It is.

10 MS. CHEUK: Okay. Who conducted it?

11 MR. CORPENING: Christine Willing, a  
12 licensed school psychologist.

13 MS. CHEUK: Had you ever met her before?

14 MR. CORPENING: I had not.

15 MS. CHEUK: And what classes did  
16 Ms. Willing observe?

17 MR. CORPENING: She observed REDACTED in  
18 third period PE class, briefly in his fourth period  
19 orchestra class, his math class, and his English  
20 class.

21 MS. CHEUK: Was this observation  
22 considered?

1 MR. CORPENING: It was.

2 MS. CHEUK: By an eligibility team?

3 MR. CORPENING: Yes.

4 MS. CHEUK: When?

5 MR. CORPENING: On December 14th, 2018,  
6 and January 11, 2019.

7 MS. CHEUK: Please look at Exhibit 43.  
8 What is this document?

9 MR. CORPENING: This is Ms. Grady, the  
10 school social worker's notes.

11 MS. CHEUK: Did Ms. Grady accompany  
12 Ms. Willing during her observations?

13 MR. CORPENING: She did.

14 MS. CHEUK: And did Ms. Grady present her  
15 observation at an eligibility meeting?

16 MR. CORPENING: She commented, yes, from  
17 her notes.

18 MS. CHEUK: Okay. And has this document  
19 been provided to Mr. Van Scoyoc?

20 MR. CORPENING: It has.

21 MS. CHEUK: Please look at Exhibit 44.

22 MR. CORPENING: This is a sign-in sheet

1 for an eligibility meeting.

2 MS. CHEUK: Did you attend that meeting?

3 MR. CORPENING: I did.

4 MS. CHEUK: And what did you understand  
5 the purpose of the meeting to be?

6 MR. CORPENING: To consider [REDACTED]'s  
7 eligibility under autism and emotional disability  
8 and other health --

9 MS. CHEUK: Are you on Exhibit 44?

10 MR. CORPENING: I am.

11 MS. CHEUK: What's the date on the  
12 sign-in sheet?

13 MR. CORPENING: Sorry. November 13,  
14 2018. Sorry. Wrong date.

15 MS. CHEUK: And what did you understand  
16 the purpose of the meeting to be?

17 MR. CORPENING: It's an IEP.

18 MS. CHEUK: Okay. What action did --  
19 according to the prior written notice did the IEP  
20 take at that meeting?

21 MR. CORPENING: This meeting was to  
22 discuss changing [REDACTED]s math teacher, and FCPS

1 refused to change [REDACTED]'s current math teacher and  
2 refused to provide math tutoring for [REDACTED]

3 MS. CHEUK: Why did the IEP team refuse  
4 to change the math teacher and providing tutoring?

5 MR. CORPENING: FCPS refused this action  
6 as [REDACTED] is settling into the environment and  
7 believes the anxiety of another change would be  
8 disruptive. And refused to provide tutoring, as  
9 [REDACTED] is not missing math class, retake tests,  
10 (indiscernible) are taken and the academic focus  
11 block. And free tutoring is available before and  
12 after school.

13 MS. CHEUK: Please look at Exhibit 45.  
14 What are these documents?

15 MR. CORPENING: This is a progress report  
16 dated November 13, 2018.

17 MS. CHEUK: And according to this  
18 document, what was [REDACTED]'s progress on November 13,  
19 2018, for each of his goals?

20 MR. CORPENING: [REDACTED] -- it was reported  
21 that [REDACTED] was making sufficient progress across  
22 all his goals.

1 MS. CHEUK: Please look at Exhibit 46.  
2 Do you recognize this document?

3 MR. CORPENING: This is an office  
4 referral.

5 MS. CHEUK: And when did this -- what is  
6 the date on this document?

7 MR. CORPENING: November 28, 2018.

8 MS. CHEUK: Did anything else significant  
9 happen with regard to REDACTED on November 28, 2018?

10 MR. CORPENING: We had a mediation  
11 meeting with Mr. Van Scoyoc and Mr. Nanni.

12 MS. CHEUK: Was this incident considered  
13 at an eligibility meeting?

14 MR. CORPENING: It was.

15 MS. CHEUK: Please flip to Exhibit 47.  
16 What is included here?

17 MR. CORPENING: This is the paperwork  
18 that was provided to Mr. Van Scoyoc for the  
19 eligibility meetings conducted on December 14th and  
20 January 11th, 2019.

21 MS. CHEUK: So it looks like there are  
22 two sign-in sheets. Why is that?

1 MR. CORPENING: We were unable to  
2 complete the eligibility on December 14th. It went  
3 over three hours, and Mr. Van Scoyoc had an  
4 obligation -- another obligation and we had to end  
5 the meeting early before completion.

6 MS. CHEUK: So let's start with part one  
7 of the eligibility meeting, which is December 14th,  
8 2018. Did you attend that meeting?

9 MR. CORPENING: I did.

10 MS. CHEUK: And did the team assemble for  
11 part one constitute a properly composed eligibility  
12 team?

13 MR. CORPENING: It did.

14 MS. CHEUK: Did Mr. Van Scoyoc and  
15 Mr. Nanni attend that meeting?

16 MR. CORPENING: Yes.

17 MS. CHEUK: And were they represented by  
18 an attorney that day?

19 MR. CORPENING: They were.

20 MS. CHEUK: Did the team consider input  
21 from REDACTED's teachers?

22 MR. CORPENING: Yes.

1 MS. CHEUK: Did the team consider [REDACTED]'s  
2 current grades?

3 MR. CORPENING: Yes.

4 MS. CHEUK: Did the team consider any  
5 behavior incidents during the 2018-2019 school  
6 year?

7 MR. CORPENING: It did.

8 MS. CHEUK: Did the team consider the IEE  
9 observation submitted by Christine Willing?

10 MR. CORPENING: Yes.

11 MS. CHEUK: Did Ms. Willing attend the  
12 eligibility meeting?

13 MR. CORPENING: She did not.

14 MS. CHEUK: Did [REDACTED] attend the meeting?

15 MR. CORPENING: [REDACTED] attended for about  
16 ten minutes.

17 MS. CHEUK: And what was your takeaway  
18 from what he shared with the eligibility team?

19 MR. CORPENING: I, as well as the rest of  
20 the team, were quite impressed with [REDACTED]'s  
21 presentation. He came in, he answered questions,  
22 made eye contact, smiled. I mean, for a sixth



1 grade middle school student to come in to where  
2 there were almost a dozen adults and be questioned,  
3 he did extremely well.

4 MS. CHEUK: Did he seem nervous?

5 MR. CORPENING: Not for -- not for what  
6 he was in.

7 MS. CHEUK: Was his overall body language  
8 positive or negative?

9 MR. CORPENING: Very positive. He sat up  
10 in the chair, was able to -- answered all questions  
11 in complete sentences. The team was quite  
12 impressed with him.

13 MS. CHEUK: Had you ever met him prior to  
14 that meeting?

15 MR. CORPENING: I had not actually met  
16 him. I had seen him but that was the first time I  
17 had actually interacted with REDACTED.

18 MS. CHEUK: Do you remember what REDACTED  
19 said in response to a question about what the  
20 school could be doing differently for him?

21 MR. CORPENING: He was asked that  
22 question, and I believe it was by Ms. Belkowicz

1 (ph), the counsel, and he said there's nothing more  
2 that he could think of.

3 MS. CHEUK: Do you remember Mr. Van  
4 Scoyoc's reaction to [REDACTED]'s input?

5 MR. CORPENING: Mr. Van Scoyoc did not  
6 interact a lot with [REDACTED] during that ten minutes.

7 MS. CHEUK: And did Mr. Nanni have a  
8 reaction to [REDACTED]'s input?

9 MR. CORPENING: Yes. Mr. Nanni, sitting  
10 right beside him, actually reached over and pinched  
11 him once and said, "You're clamming up," or  
12 something to that effect.

13 MS. CHEUK: Okay. Looking back at the  
14 eligibility summary on page 458, it states that the  
15 team discussed the autism and ED criteria  
16 worksheets.

17 MR. CORPENING: Yes.

18 MS. CHEUK: The team determined that  
19 [REDACTED] does not meet the criteria for autism or ED.

20 MR. CORPENING: Correct.

21 MS. CHEUK: Did you agree with those  
22 determinations?

1 MR. CORPENING: I do.

2 MS. CHEUK: Why?

3 MR. CORPENING: We thoroughly looked at  
4 all the reports. We considered everything that has  
5 been -- we reviewed previous evaluation reports.  
6 **REDACTED** clearly does not need specialized instruction  
7 to access his education. He is doing very well  
8 considering.

9 MS. CHEUK: And what about Ms. Willing's  
10 observation? Didn't she indicate that **REDACTED**  
11 exhibited autistic behaviors?

12 MR. CORPENING: When we really delved  
13 into Ms. Willings's observation report, they  
14 serviced a lot of concerns about the report. She  
15 was making statements about -- that kind of were  
16 outside of the parameters of an observation. And  
17 one teacher even reported that she observed  
18 Ms. Willing rifling through her desk. So we -- and  
19 so -- and we also compared that to Ms. Grady's  
20 accompanying her, and it was almost an opposite  
21 conversation. She was making statements in her  
22 observation to Ms. Willing that these were

1 autistic-like behaviors, and Ms. Grady, who knows  
2 REDACTED and sees him in the school setting said  
3 absolutely not, that he actually performed quite  
4 well.

5 MS. CHEUK: Okay. Moving on to Exhibit  
6 48, what is that document?

7 MR. CORPENING: These are progress  
8 reports dated January 4th, 2019.

9 MS. CHEUK: And what does it reveal about  
10 REDACTED's progress on his goals in January 2019?

11 MR. CORPENING: Again, it reports that  
12 REDACTED was making sufficient progress across all  
13 domain -- all goals.

14 MS. CHEUK: Looking at Exhibit 49, what  
15 are these documents?

16 MR. CORPENING: These are documents  
17 pertaining to setting up an eligibility meeting for  
18 January 11, 2019.

19 MS. CHEUK: And that was part two of the  
20 eligibility meeting from December?

21 MR. CORPENING: Correct.

22 MS. CHEUK: And according to this email

1 communication, on what date was part two of the  
2 eligibility scheduled?

3 MR. CORPENING: January 11th, 2019.

4 MS. CHEUK: And when did FCPS communicate  
5 that date to Mr. Van Scoyoc? It's on page 1 of the  
6 exhibit.

7 MR. CORPENING: Ms. Tracy Hoeting sent an  
8 email on December 17th, 2018.

9 MS. CHEUK: And looking at the last page  
10 of that exhibit, what does Mr. Nanni communicate to  
11 Ms. Hoeting about that meeting?

12 MR. CORPENING: We are able to meet at  
13 9:30. Christine Willing to participate via  
14 conference call, and we will be recording.

15 MS. CHEUK: And what date did he send  
16 that communication?

17 MR. CORPENING: That was on January 4th  
18 at 11:15 a.m.

19 MS. CHEUK: Okay. Looking to Exhibit 50,  
20 what documents are appended there?

21 MR. CORPENING: This is an email from  
22 Mr. Sebacco (ph), the new case manager for REDACTED.

1 It's an email on January 8th at 10:04 a.m.,  
2 basically introducing himself to Mr. Van Scoyoc and  
3 to remind him of the eligibility meeting on Friday.

4 MS. CHEUK: And did Mr. Van Scoyoc reply  
5 to that email?

6 MR. CORPENING: He did.

7 MS. CHEUK: When did you become involved?

8 MR. CORPENING: Later that day, on  
9 January 8th, I received a copy of this email.

10 MS. CHEUK: And turning to five pages  
11 from the end -- I apologize. Fifth page from the  
12 end of the exhibit, you have a response on January  
13 8th at 3:25. If you can find that. Was that your  
14 response?

15 MR. CORPENING: It is.

16 MS. CHEUK: And what does it generally  
17 provide? First of all, what were his concerns?  
18 Backing up. What did he say to the case manager?

19 MR. CORPENING: The reason why the case  
20 manager forwarded it to me is because it looked  
21 like Mr. Nanni was now declining to come to the  
22 eligibility meeting that Friday just as -- in

1 regards to continuation of the eligibility meeting,  
2 I'm requesting that we hold off until it is  
3 determined if using average scores is  
4 discriminatory.

5 MS. CHEUK: Average scores from what?

6 MR. CORPENING: I believe he was  
7 referencing the GADS and the brief that were  
8 conducted by Dr. Cameron.

9 MS. CHEUK: As part of his testing for  
10 the previous eligibilities?

11 MR. CORPENING: Previous eligibilities,  
12 yes.

13 MS. CHEUK: Okay. And so what did your  
14 response provide to that?

15 MR. CORPENING: On January 8th at 3:25, I  
16 wrote Mr. Van Scoyoc an email that said, I have  
17 been provided your email. The evaluations you are  
18 referencing were presented in earlier eligibility  
19 meetings. Your input was considered, and REDACTED was  
20 found not eligible for special education. And I  
21 reminded him that we were convening the eligibility  
22 team at his request to consider the IEE from

1 Ms. Willing. And it said that Friday's meeting  
2 would go forth, that the continuation had already  
3 been started and we were going to conclude it.

4 MS. CHEUK: And did Mr. Van Scoyoc  
5 respond to you?

6 MR. CORPENING: He did.

7 MS. CHEUK: And could you read the last  
8 line of his email.

9 MR. CORPENING: "I am requesting new  
10 testing be completed by FCPS before any meeting to  
11 convene for any reason."

12 MS. CHEUK: So did you view that as a  
13 request to reschedule a meeting?

14 MR. CORPENING: No, actually the  
15 opposite. It was a refusal to meet.

16 MS. CHEUK: And please read aloud your  
17 response at 6:58. Should be at the top of --

18 MR. CORPENING: I have got it.

19 MS. CHEUK: Okay.

20 MR. CORPENING: "Mr. Van Scoyoc: No  
21 further testing evaluations will be conducted for  
22 this eligibility process. As I have said, we will



1 conclude the eligibility this Friday."

2 MS. CHEUK: Did Mr. Van Scoyoc ever  
3 return the meeting invitation?

4 MR. CORPENING: He did.

5 MS. CHEUK: When?

6 MR. CORPENING: I believe the next  
7 morning.

8 MS. CHEUK: And what does it say after "I  
9 can attend on"?

10 MR. CORPENING: "TBD."

11 MS. CHEUK: So did FCPS issue a prior  
12 written notice in regard to the refusal to  
13 conduct --

14 MR. CORPENING: Yes.

15 MS. CHEUK: -- additional testing?

16 And is that Exhibit 51?

17 MR. CORPENING: It is.

18 MS. CHEUK: And does that explanation  
19 reflect essentially what your email said to him the  
20 day before?

21 MR. CORPENING: It does.

22 MS. CHEUK: Okay. And what could Mr. Van

1 Scoyoc have done if he disagreed with that  
2 decision?

3 MR. CORPENING: He could have filed a  
4 request for mediation or a due process hearing.

5 MS. CHEUK: Did he do so?

6 MR. CORPENING: He did not.

7 MS. CHEUK: Looking back at Exhibit 47 at  
8 the list of participants for part 2 of the  
9 eligibility meeting, could you read who attended  
10 that meeting, please.

11 MR. CORPENING: Ms. Henson, the assistant  
12 principal at Marshall Middle School; Shelby Gohn,  
13 the special ed supervisor; Brittany Grabbe, the  
14 school psychologist; myself; Margreta Grady, who is  
15 the school social worker; Dr. Cameron, school  
16 psychologist; Stephen Sebacco, the special  
17 education case manager; Lauren Settle, science  
18 teacher; and Tracy Hoeting, former special  
19 education teacher.

20 MS. CHEUK: And so you attended this  
21 meeting. Is that a properly composed eligibility  
22 team under the IDEA?

1 MR. CORPENING: It is.

2 MS. CHEUK: And what criteria did the  
3 eligibility team review at this meeting?

4 MR. CORPENING: Other health impaired.

5 MS. CHEUK: As you testified earlier,  
6 Dr. Giroux issued an IEE report. Is that  
7 considered at this meeting?

8 MR. CORPENING: It was.

9 MS. CHEUK: Did he attend the meeting?

10 MR. CORPENING: He did not.

11 MS. CHEUK: Did the eligibility team  
12 concern the concerns that had been raised by  
13 Mr. Van Scoyoc that week about prior testing?

14 MR. CORPENING: Yes. I specially read  
15 Mr. Van Scoyoc's concerns, and the eligibility team  
16 considered that. Dr. Cameron actually responded to  
17 why he disagreed, and the team agreed with  
18 Dr. Cameron's assessment.

19 MS. CHEUK: So the team decided or  
20 determined that he had conducted valid evaluations?

21 MR. CORPENING: Correct.

22 MS. CHEUK: What did the team decide with

1 regard to OHI?

2 MR. CORPENING: That he was not eligible  
3 because he did not require specialized instruction.

4 MS. CHEUK: Did you agree with that  
5 determination?

6 MR. CORPENING: I do.

7 MS. CHEUK: Did anyone on that  
8 eligibility team dissent to that determination?

9 MR. CORPENING: No.

10 MS. CHEUK: Turning to Exhibit 52, what  
11 is the document on Exhibit 52?

12 MR. CORPENING: This is a pediatric  
13 ophthalmology eye exam result.

14 MS. CHEUK: And based on this document,  
15 what does it provide?

16 MR. CORPENING: It provides that REDACTED  
17 has Duane syndrome, type 3.

18 MS. CHEUK: Was this considered at the  
19 eligibility meeting on January 11th?

20 MR. CORPENING: It was.

21 MS. CHEUK: And based on this document,  
22 what, if any, recommendations were made regarding

1 his educational means?

2 MR. CORPENING: We reviewed it, and the  
3 only item on here is that -- is to allow REDACTED to  
4 sit in the middle of the class.

5 MS. CHEUK: And is that an accommodation  
6 in REDACTED's IEP?

7 MR. CORPENING: It is.

8 MS. CHEUK: Did the document recommend  
9 specialized instruction to address Duane's  
10 syndrome?

11 MR. CORPENING: No.

12 MS. CHEUK: Thank you. All right.  
13 Mr. Corpening, thank you for your attention today  
14 and your testimony. I just have a few more  
15 questions for you.

16 Do you recall that you have been  
17 qualified as an expert in specific education?  
18 Based on the documentation before you and your  
19 testimony, do you have an opinion as to what  
20 REDACTED's identified disability should be?

21 MR. CORPENING: Under IDEA, I do not  
22 believe REDACTED required special education. He does

1 not meet the criteria. We have reviewed all of the  
2 processes, and I would not agree with a finding of  
3 disability under IDEA. But I do believe that REDACTED  
4 does have some issues that occasionally be resolved  
5 through a 504 plan to provide accommodations.

6 MS. CHEUK: Do you believe he's been  
7 adequately evaluated?

8 MR. CORPENING: Yes.

9 MS. CHEUK: Do you believe his  
10 eligibility team meetings have been staffed as  
11 required by applicable law?

12 MR. CORPENING: Correct, I do.

13 MS. CHEUK: Do you believe any of his  
14 weaknesses require special education or specialized  
15 instruction?

16 MR. CORPENING: I believe that they do  
17 not.

18 MS. CHEUK: Again, Mr. Corpening, why did  
19 FCPS administration ultimately determine to  
20 initiate this due process?

21 MR. CORPENING: We have reached an  
22 impasse. We have exhausted every option that we

1 can possibly come up with. And I know you don't  
2 want to get into a full history; however, I would  
3 like to point out that we have -- we keep moving --  
4 we have moved the bar back time after time and  
5 added accommodations to [REDACTED]'s IEP that we weren't  
6 fully in agreement were required for him to access  
7 education; however, in an attempt to come to a  
8 resolution and to help [REDACTED], we have allowed those  
9 accommodations to be in there. It is rare, if  
10 ever, to see 21 accommodations, and I only read the  
11 accommodation. I didn't read the requirements  
12 within those accommodations that we believe are  
13 actually hindering [REDACTED] to be successful.

14 I have seen reports from the teachers  
15 where [REDACTED] has refused many of these  
16 accommodations, and it has resolved it in a  
17 conflict between the teacher and [REDACTED] because the  
18 teachers are under such scrutiny by Mr. Nanni to  
19 provide these. They're trying to (indiscernible)  
20 these accommodations on him, and it becomes a  
21 conflict with him.

22 So we have explored -- we have discussed

1 discussion about placement, which we don't take  
2 lightly, which is extremely expensive, and has --  
3 and I believe would not be the best placement for  
4 [REDACTED]. I believe [REDACTED] is in the appropriate  
5 placement. However, in an attempt to nullify  
6 what's going on, we have offered to consider that.

7           So -- as I said before, I have been doing  
8 this for 20 years and never would have dreamed that  
9 I would ever file a due process against a family.  
10 We, in no way, have an intent to remove Mr. Van  
11 Scoyoc's due process rights, of filing a due  
12 process or state complaints, however, we have come  
13 to a point to where the school is being  
14 significantly affected. Teachers are resigning  
15 right in the middle of the school year, and  
16 teachers that he's going to have next year have  
17 already put in their retirement papers because they  
18 are so fearful of what's coming next year. So  
19 there's a lot of underlying turmoil that's  
20 accompanying this process.

21           MS. CHEUK: And looking at Exhibit 1, the  
22 due process request that you filed, specifically



1 the facts relating to the problem, you have  
2 testified at some length today. Do you believe  
3 that the documents and the testimony you provided  
4 are consistent with the description of the problem  
5 on a due process request form?

6 MR. CORPENING: I do.

7 MS. CHEUK: And in the proposed  
8 resolution section, you wrote, "FCPS requests that  
9 the eligibility team's determination that REDACTED is  
10 no longer eligibility for special education  
11 services be sustained and that the hearing officer  
12 terminate REDACTED's special education services."

13 You also wrote, asking the hearing  
14 officer to direct that REDACTED be referred to the  
15 Section 504 committee to determine eligibility and  
16 to determine an appropriate Section 504 plan.

17 Do you still believe that's the  
18 appropriate resolution?

19 MR. CORPENING: I do.

20 MS. CHEUK: Is there anything further you  
21 wish to share?

22 MR. CORPENING: No, I think that covers

1 it.

2 MS. CHEUK: Okay. Please answer  
3 Mr. Nanni's questions.

4 HEARING OFFICER ASCHMANN: This is your  
5 chance to cross-examine, sir.

6 CROSS-EXAMINATION

7 MR. NANNI: Okay. Mr. Corpening, there  
8 is -- there has been some frustration, I think,  
9 between both parties, and I think the frustration  
10 comes from what you're saying sounds great but  
11 what's happening in the classroom is not the same.  
12 They don't meet. So I think we can go through a  
13 few things to --

14 HEARING OFFICER ASCHMANN: Do you have a  
15 question?

16 MR. NANNI: -- illuminate.

17 Yes.

18 HEARING OFFICER ASCHMANN: What is it?

19 MR. NANNI: The first one: You mentioned  
20 many times that Mr. Van Scoyoc had the ability to  
21 ask for mediation, and you said he never did. So  
22 on March 28th, in your email --

1 HEARING OFFICER ASCHMANN: What year?

2 MR. NANNI: I'm sorry. After reviewing  
3 your request for mediation, I would like to -- so  
4 he did request mediation, and it was denied. I  
5 think -- I believe Mr. Van Scoyoc denied --

6 HEARING OFFICER ASCHMANN: Nobody can  
7 follow what you're saying.

8 MR. NANNI: Oh, I'm sorry. I'm sorry.

9 HEARING OFFICER ASCHMANN: You need to  
10 ask one question --

11 MR. NANNI: I'm so sorry.

12 HEARING OFFICER ASCHMANN: -- at a time.  
13 Not make a speech with it.

14 MR. NANNI: Gotcha. I'm sorry.

15 HEARING OFFICER ASCHMANN: Thank you.

16 MR. NANNI: I was just sitting here a  
17 long time.

18 So did Mr. Van Scoyoc ever request  
19 mediation?

20 MR. CORPENING: Yes.

21 MR. NANNI: How many times; do you  
22 remember?

1 MR. CORPENING: Three, I believe.

2 MR. NANNI: And each time, you denied his  
3 request for mediation?

4 MR. CORPENING: That's incorrect.

5 MR. NANNI: Did -- I guess, when was a  
6 time that you accepted his request for mediation?

7 MR. CORPENING: We had mediation on  
8 November 11th --

9 MR. NANNI: So that was --

10 MR. CORPENING: November 28th on --

11 MR. NANNI: So there was one mediation?

12 MR. CORPENING: Yes.

13 HEARING OFFICER ASCHMANN: Of what year?

14 MR. CORPENING: 2018.

15 HEARING OFFICER ASCHMANN: Thank you.

16 MR. NANNI: All right. You have  
17 mentioned many times that REDACTED does not like to  
18 use his accommodations; that it's causing  
19 problems --

20 HEARING OFFICER ASCHMANN: Please ask  
21 questions, not make speeches, sir.

22 MR. NANNI: I'm asking a question.

1 So you're suggesting a plan of  
2 accommodations through 504?

3 MR. CORPENING: Yes.

4 MR. NANNI: But you're also stating that  
5 **REDACTED** doesn't like to use his accommodations and  
6 it's causing problems.

7 MR. CORPENING: I'm sorry? The question.

8 MR. NANNI: Is **REDACTED** -- is there an issue  
9 with the teachers trying to let **REDACTED** use his  
10 accommodations in class, you just mentioned that  
11 it's causing problems with them fighting with each  
12 other, and it's interfering with **REDACTED**'s education?

13 MR. CORPENING: I believe I said that  
14 some of the accommodations were causing that. I'm  
15 not disagreeing that some of the accommodations  
16 aren't appropriate. I'm saying that the mass  
17 number of accommodations and the detailed  
18 requirements from the teachers to report and to  
19 implement them, that's where the problem lies.

20 MR. NANNI: So would that change with  
21 specialized instruction rather than so many  
22 accommodations?

1 MR. CORPENING: I don't believe that  
2 **REDACTED** is required or needs specialized instruction.

3 MR. NANNI: Okay. Let's see. So in our  
4 evidence -- our exhibits -- in Exhibit No. 5 --

5 HEARING OFFICER ASCHMANN: Is that Volume  
6 No. 1?

7 MR. NANNI: Yes, Volume No. 1.

8 There is a classroom observation  
9 performed by Ms. Gum, Annie Gum. Are you familiar  
10 with this observation?

11 MR. CORPENING: I am.

12 MR. NANNI: What was the date of this  
13 observation?

14 MR. CORPENING: September 18, 2017.

15 MR. NANNI: So this is prior to  
16 eligibility?

17 MR. CORPENING: Which eligibility?

18 MR. NANNI: The first eligibility meeting  
19 that was held at Bradley for his tri-annual. And  
20 the date of that -- oh, yes. That was -- I believe  
21 that was the 1/31/2018 tri-annual eligibility  
22 meeting. That was the first eligibility meeting,

1 the tri-annual.

2 So we have this observation that wasn't  
3 included or wasn't discussed at the eligibility  
4 meeting; is that correct?

5 MR. CORPENING: I'm not sure. I would  
6 have to review that paperwork.

7 MR. NANNI: Mr. Van Scoyoc, you  
8 attended --

9 HEARING OFFICER ASCHMANN: You can't ask  
10 him questions at this stage. This is your  
11 opportunity to ask this gentleman some questions.

12 MR. NANNI: Correct. Gotcha. Thank you.

13 HEARING OFFICER ASCHMANN: As I have  
14 instructed, no speeches. Just ask him questions.  
15 If you have got something you want to ask him, this  
16 is your chance to do it, sir.

17 MR. NANNI: Okay. So if you take a look  
18 at this observation, you have, under -- okay.

19 Mr. Corpening, can you please list what categories  
20 REDACTED is rated poorly in off of this observation?

21 MR. CORPENING: Attention, following  
22 directions, begins work promptly, completes work on

1 time, contributes meaningfully in class discussion,  
2 completes written assignments satisfactorily.

3 MR. NANNI: Okay. So let's look at the  
4 Kellar Center, Exhibit 1 in our exhibit book.  
5 Kellar Center evaluation. On page 24, we have  
6 Dr. Giroux's diagnosis here. Can you please  
7 list -- can you please tell us what his diagnosis  
8 was?

9 MR. CORPENING: The diagnostic codes:  
10 Attention deficit, hyperactivity disorder, combined  
11 presentation mild, autism spectrum disorder  
12 requiring support without intellectual impairment  
13 and without language impairment, other specified  
14 anxiety disorder.

15 MR. NANNI: So in stating this, we're  
16 going down here to "maintaining satisfactory  
17 personal -- interpersonal relationships." Is that  
18 a reason, in your expertise, you would feel that a  
19 child could use a goal?

20 MR. CORPENING: I'm sorry? Are you  
21 putting this in context or in general for any  
22 child?



1 MR. NANNI: I'm putting it in context for  
2 [REDACTED] with his diagnosis.

3 MR. CORPENING: If that was accurate and  
4 we agreed with this report, that would be  
5 appropriate.

6 MR. NANNI: Okay. Can you tell us why  
7 you don't agree?

8 MR. CORPENING: Throughout Dr. Giroux's  
9 report, he states that [REDACTED] is performing  
10 adequately, even his executive functioning, which  
11 is at the heart of many of his goals that he has  
12 adequate executive function. He has adequate to  
13 above average social skills. He has adequate to  
14 above average academic skills. And these are all  
15 based on Dr. Giroux's evaluation.

16 And then when we get into parent sheets  
17 and parent reporting, it becomes significantly a  
18 shift from a child who's adequate and performing  
19 above average to having all these diagnoses. And  
20 the team considered that, and we discussed it at  
21 length about how those parent rating skills  
22 significantly skewed what we believe was the

1 appropriate findings for [REDACTED].

2 MR. NANNI: Okay. So if you go to page  
3 No. 20, so we're going to -- right here, [REDACTED]  
4 talks about how he perceives himself, and just  
5 quickly, regarding [REDACTED]'s views of others, his  
6 responses indicate that he is interested in others  
7 but is cautious of others and is likely to keep his  
8 friends at a psychological arm's length. He is  
9 likely to become less involved with others in a  
10 deep, meaningful way.

11 Do you feel that is true for [REDACTED]?

12 MR. CORPENING: No, I do not.

13 MR. NANNI: Okay. On page No. 18, do you  
14 feel that [REDACTED] is emotionally defensive and that  
15 he finds it difficult to discuss his behavior with  
16 difficulties, perhaps out of fear of losing control  
17 or a result of marked feelings of inadequacy and  
18 insecurity?

19 MR. CORPENING: I'm not sure I can answer  
20 that. I did not -- I don't know [REDACTED] well enough  
21 to say that, but from what we're seeing in  
22 classroom observations, reporting by teachers, in

1 our own evaluations, I would say that that is not  
2 accurate.

3 MR. NANNI: If you turn to page 38 or  
4 Exhibit 38 --

5 MS. CHEUK: I would object to this  
6 exhibit.

7 HEARING OFFICER ASCHMANN: And why is  
8 that?

9 MS. CHEUK: This exhibit has nothing to  
10 do with REDACTED's eligibility. It relates to who his  
11 math teacher is going to be. It is irrelevant to  
12 the discussion of eligibility.

13 HEARING OFFICER ASCHMANN: Response?

14 MR. NANNI: It actually has nothing to do  
15 with who his math teacher is going to be. It's a  
16 comment made by his math teacher with his  
17 difficulties with peer interactions and how she's  
18 actually trying to help him work on them in class.

19 HEARING OFFICER ASCHMANN: Is there a  
20 time frame?

21 MR. NANNI: It is from December 7th,  
22 2018.

1 HEARING OFFICER ASCHMANN: Okay. I'm  
2 going to allow it.

3 MR. NANNI: Okay.

4 So Ms. Kohler says here -- I'm sorry.  
5 Okay. So -- okay. So in this email, it obviously  
6 states Mrs. Kohler is asking for more time to  
7 prepare for **REDACTED** to enter her classroom as his new  
8 math teacher. Did you give Mrs. Kohler more time  
9 to review his IEP before --

10 MS. CHEUK: Mr. -- I'm sorry. I object.

11 HEARING OFFICER ASCHMANN: What's the  
12 relevance?

13 MS. CHEUK: That's not what he said it  
14 was.

15 HEARING OFFICER ASCHMANN: And I don't --  
16 I don't see how that's relevant.

17 MR. NANNI: Okay.

18 HEARING OFFICER ASCHMANN: It's talking  
19 about preparing for future events.

20 MR. NANNI: Well, Mr. Corpening, you  
21 brought up that teachers are resigning due to  
22 **REDACTED**'s IEP, having to follow his IEP and INR

1 [verbatim] actually -- trying to actually have them  
2 implement his IEP. So in this email -- again, we  
3 can go back to this email -- Mrs. Kohler is stating  
4 that she did not have any time to prepare for REDACTED  
5 to enter her class. Did you give her time to  
6 prepare to review his IEP before he actually  
7 entered her classroom?

8 HEARING OFFICER ASCHMANN: The issue is  
9 eligibility.

10 MS. CHEUK: Not IEP.

11 HEARING OFFICER ASCHMANN: Not IEPs and  
12 accommodations of the IEPs.

13 MR. NANNI: Well, it -- I think this all  
14 goes back to eligibility, the problems that --  
15 okay. The problem that REDACTED is facing are  
16 demonstrated by the lack of preparation of him  
17 reviewing the IEP, of being ready for him  
18 whether -- it's a lack of preparing to have him in  
19 their classroom that is causing all these problems.

20 HEARING OFFICER ASCHMANN: Well, that's a  
21 different question from eligibility. I mean,  
22 that's implementing his IEP. So I'm --

1 MR. NANNI: Without -- without his --

2 HEARING OFFICER ASCHMANN: I'm going to  
3 sustain the objection. Please ask your next  
4 question.

5 MR. NANNI: On the evaluation on page No.  
6 4 -- it's Exhibit -- our Exhibit No. 1, it's page  
7 No. 4, I want to point out -- are you aware that  
8 REDACTED has a history of fecal smearing?

9 MR. CORPENING: Yes, as reported by you.  
10 We have not had that as an issue at school.

11 MR. NANNI: Not that we know about.

12 So is that typical of a child -- of a  
13 normal everyday child?

14 MR. CORPENING: Well, if we're going to  
15 have this conversation, we really need to bring in  
16 a more in-depth conversation about his social  
17 history and about how he ended up in your care. So  
18 there's been --

19 MR. NANNI: I object.

20 MR. VAN SCOYOC: Yeah, I object.

21 HEARING OFFICER ASCHMANN: No, stop,  
22 please. You need to ask questions that are also

1 relevant to [REDACTED], not general stuff, because this  
2 is about [REDACTED]'s eligibility, not all the  
3 possibilities that exist in the world.

4 MR. NANNI: Okay.

5 Okay. You mentioned threatening emails.  
6 Do you have any examples of these threatening  
7 emails?

8 MR. CORPENING: I do not.

9 MR. NANNI: Okay. If you go to Exhibit  
10 29, please.

11 MR. CORPENING: Your exhibit, sir?

12 MR. NANNI: Yes. Okay. Is this is  
13 properly submitted form to request rescheduling an  
14 eligibility meeting and IEP meeting?

15 MR. CORPENING: It is a form but it's not  
16 properly completed. If you'll look right under the  
17 TBD, it says date and time and place.

18 MR. NANNI: Do you think that Mr. Van  
19 Scoyoc was not going to, you know, make a future  
20 date?

21 MR. CORPENING: Mr. Van Scoyoc had  
22 already told me in email that he was not.

1 MR. NANNI: So you convened an  
2 eligibility meeting without a parent present; is  
3 that correct?

4 MR. CORPENING: Yes.

5 MR. NANNI: In that eligibility meeting,  
6 was any parent input given?

7 MR. CORPENING: No. There was no parent  
8 there.

9 MR. NANNI: Was any parent input taken  
10 into account during that meeting?

11 MR. CORPENING: Yes.

12 MR. NANNI: And what was that?

13 MR. CORPENING: That was Mr. Van Scoyoc's  
14 objection to the GADS and the brief that  
15 Dr. Cameron had included in his evaluations.

16 MR. NANNI: Okay. And during this  
17 meeting, what was Dr. Cameron's objection to Adam's  
18 comments; do you remember?

19 MR. CORPENING: I'm not sure. What do  
20 you mean by "objection"?

21 MR. NANNI: Why did he disagree with  
22 Adam's assumption or Adam's request?



1 MR. CORPENING: He went over his  
2 methodology for collecting the GADS and the briefs  
3 and talked about the elevation -- the significant  
4 elevation from parent compared to teacher.

5 MR. NANNI: Is it Dr. Cameron's or your  
6 responsibility to determine who participates in the  
7 evaluations?

8 MR. CORPENING: I'm not sure what you're  
9 asking.

10 MR. NANNI: The IDEA is clear when it  
11 comes to evaluations who -- how to conduct the  
12 evaluations. There is a -- does IDEA, do you know  
13 if it specifies that a parents' input must be  
14 taken?

15 MR. CORPENING: Yes.

16 MR. NANNI: Okay. You also stated that  
17 there was a mediation meeting that took place, and  
18 during that mediation --

19 MS. CHEUK: I object. That mediation is  
20 confidential.

21 HEARING OFFICER ASCHMANN: Again, this is  
22 something we talked about. All the negotiations

1 and disputes you have had in the past aren't going  
2 to help me with this. We need to focus on --

3 MR. NANNI: Right, okay.

4 HEARING OFFICER ASCHMANN: --  
5 eligibility.

6 MR. NANNI: There was an incident that  
7 took place -- the eligibility meeting that convened  
8 that was not complete, Mr. Van Scoyoc had to leave,  
9 do you know why he had to leave?

10 MR. CORPENING: Yes.

11 MR. NANNI: Why did he have to leave?

12 MR. CORPENING: He had a meeting with the  
13 intake officer.

14 MR. NANNI: With the juvenile intake  
15 officer --

16 MR. CORPENING: Yes.

17 MR. NANNI: -- because of an incident  
18 that occurred. And are you familiar with the  
19 incident?

20 MR. CORPENING: Yes.

21 MR. NANNI: Exhibit 46 in ours.

22 MR. VAN SCOYOC: In theirs.

1 MR. NANNI: I'm sorry. In yours?

2 MR. CORPENING: I'm sorry. Which number?

3 MR. NANNI: No. 46. Can you explain what  
4 happened to REDACTED that day or what the incident was  
5 that occurred?

6 MR. CORPENING: Any information of it is  
7 secondhand.

8 MR. NANNI: Well, just in general, what  
9 actually -- what was the incident?

10 HEARING OFFICER ASCHMANN: Well, if he  
11 doesn't know, he can't tell you. If he only knows  
12 what someone else told him, it's hearsay.

13 MR. NANNI: No, I'm asking what it  
14 states. What is the actual incident, what is  
15 stated on the form, the incident form.

16 HEARING OFFICER ASCHMANN: Okay.

17 MR. NANNI: Describe the  
18 behavior/concerned incident? Is that what you'd  
19 like -- is that what you're referencing?

20 I'm referencing the offense code.

21 HEARING OFFICER ASCHMANN: You're allowed  
22 to ask leading questions.

1 MR. NANNI: You scared me. I talk too  
2 much.

3 HEARING OFFICER ASCHMANN: Why don't you  
4 just ask him directly what you want to know, sir.

5 MR. NANNI: Okay.

6 All right. So the code is a BA-3 battery  
7 against a student with a weapon.

8 MR. CORPENING: Yes.

9 MR. NANNI: So **REDACTED** was accused of  
10 assault and battery. And do you know who was  
11 teaching class that day?

12 MR. CORPENING: I do not.

13 MR. NANNI: It was a substitute teacher.

14 MS. CHEUK: He's testifying.

15 HEARING OFFICER ASCHMANN: You can't do  
16 that, sir. Please refrain from doing that. Just  
17 ask questions of the witness. This is your chance  
18 to get information from him.

19 MR. NANNI: Okay. So we'll go to -- on  
20 that same exhibit, we're going to go to report of  
21 facts. It states under "Summary of Incidents"  
22 there was a substitute teacher that day. Do you

1 have any knowledge if the substitute teacher was  
2 aware of [REDACTED]'s educational challenge in the  
3 classroom?

4 MR. CORPENING: I have no firsthand  
5 knowledge.

6 MR. NANNI: Okay. Now, you mentioned  
7 also we talked a bit about testing, and we talked  
8 about not providing [REDACTED] with the services that he  
9 has, all the accommodation he has. Have you ever  
10 been aware of [REDACTED] testing without accommodations  
11 and how he performs?

12 MR. CORPENING: No.

13 MR. NANNI: So what we have in place we  
14 know has been successful; correct?

15 MR. CORPENING: I'm not sure if I agree.  
16 When we look at the 80 percent mark, we have gone  
17 back and looked at that, when he retakes a test, it  
18 does not very often modify his grade.

19 MR. NANNI: I will say that that  
20 actually -- there are -- in history this year  
21 that --

22 HEARING OFFICER ASCHMANN: Sir, please.

1 I have asked you not to testify. You need to  
2 ask --

3 MR. NANNI: Okay.

4 HEARING OFFICER ASCHMANN: -- him  
5 questions.

6 MR. NANNI: Okay. Are you aware of  
7 his --

8 HEARING OFFICER ASCHMANN: Please, sir,  
9 for a minute --

10 MR. NANNI: Is that --

11 HEARING OFFICER ASCHMANN: You're taking  
12 a lot of our time here --

13 MR. NANNI: Oh, sorry.

14 HEARING OFFICER ASCHMANN: -- not asking  
15 him questions and doing other things, and that's  
16 what's going to make this last forever.

17 MR. NANNI: Okay.

18 HEARING OFFICER ASCHMANN: And it makes  
19 it hard for me to focus and really hear the real  
20 issues when you're all over the place and talking  
21 about other things.

22 MR. NANNI: Okay.

1 HEARING OFFICER ASCHMANN: So I'd really  
2 like you to focus your questions on the issue of  
3 eligibility and what this gentleman knows about,  
4 not other things.

5 MR. NANNI: Okay.

6 MR. VAN SCOYOC: Would it be possible for  
7 us to take a quick restroom break?

8 HEARING OFFICER ASCHMANN: Yes. That's  
9 probably a good idea. Then you can maybe focus  
10 your questions.

11 (A brief recess was taken from 11:56 to  
12 11:59 a.m.)

13 MR. NANNI: I'm a little bit nervous and  
14 I'm not doing -- I'm not asking what -- I'm not  
15 staying on track. I'm not going to go -- I'm not  
16 going to take it back. I'm just going to let  
17 Adam --

18 MS. CHEUK: You stated in an email to  
19 them two weeks ago that one person would question  
20 one witness. You could not switch.

21 HEARING OFFICER ASCHMANN: You're right.

22 MR. NANNI: Okay. So we'll finish with

1 Mr. Corpening here, then, before we switch.

2 HEARING OFFICER ASCHMANN: Yes. Please.

3 MR. NANNI: Because I have to leave  
4 anyway, so...

5 HEARING OFFICER ASCHMANN: Why don't we  
6 just go ahead and finish your questions.

7 MR. NANNI: Correct. Okay. That's fine.

8 HEARING OFFICER ASCHMANN: And we'll move  
9 along from there.

10 MR. NANNI: I don't have any further  
11 questions.

12 HEARING OFFICER ASCHMANN: Very good.  
13 All right, sir.

14 MS. CHEUK: Okay. We need Dr. Cameron.  
15 All of our witnesses are in the next building.

16 (A brief recess was taken from 12:00 to  
17 12:57 p.m.)

18 HEARING OFFICER ASCHMANN: Back on the  
19 record. You said you had a procedural question.

20 MS. CHEUK: Yes. I didn't have the  
21 opportunity to redirect on Mr. Corpening, and I  
22 don't -- I'm not asking to do that now, but in



1 terms of other witnesses, will I have that  
2 opportunity?

3 HEARING OFFICER ASCHMANN: I usually  
4 allow it if you request it. Now, if no one asks  
5 for it, we just --

6 MS. CHEUK: Keep going.

7 HEARING OFFICER ASCHMANN: Yeah, with  
8 direct and cross and --

9 MS. CHEUK: Right. The other question  
10 was, in terms of witnesses that are on both lists,  
11 I'm being asked if they need to be -- when we call  
12 them, is that their opportunity to examine them?  
13 Or do they get to call them again?

14 HEARING OFFICER ASCHMANN: Yeah, usually,  
15 I like to get it all done at once.

16 MS. CHEUK: Okay.

17 HEARING OFFICER ASCHMANN: You know,  
18 instead -- if there's a witness she calls that you  
19 had intended to call, I'll allow you to go ahead  
20 and ask your questions that you would have asked as  
21 well, and, that way, we don't make people come two  
22 days if they don't have to. Everybody's got

1 something else to do besides be here, so I don't  
2 like to inconvenience anyone I don't have to.

3 So when they take the stand, let's be  
4 done so they don't have to come back.

5 MR. NANNI: Okay. And in sort of the  
6 same vein, when I have to leave, I don't want to --  
7 do I just quietly leave? I don't want to interrupt  
8 anything going on.

9 HEARING OFFICER ASCHMANN: That will be  
10 fine.

11 MR. NANNI: Okay.

12 MS. CHEUK: Should I call Dr. Cameron in?

13 HEARING OFFICER ASCHMANN: Sure.

14 MS. CHEUK: Okay.

15 HEARING OFFICER ASCHMANN: We're ready.

16 MS. CHEUK: All right.

17 DR. ALAN CAMERON,  
18 the witness, after having been duly sworn, was  
19 examined and testified to as follows:

20 HEARING OFFICER ASCHMANN: Thank you.

21 Please be seated.

22 Your witness.

1 DIRECT EXAMINATION

2 MS. CHEUK: Good afternoon, Dr. Cameron.

3 How are you?

4 DR. CAMERON: Just fine.

5 MS. CHEUK: Could you please identify  
6 yourself.

7 DR. CAMERON: I'm Alan Cameron, a school  
8 psychologist here in Fauquier County.

9 MS. CHEUK: And what is your educational  
10 background?

11 DR. CAMERON: I have a bachelor's in  
12 psychologist, a master's degree in general  
13 experimental psychology, a Ph.D. in educational  
14 psychology, a certificate of -- in neurophysiology  
15 from the University of Paris, and an EDS in school  
16 psychology from Marshall University.

17 MS. CHEUK: Okay. And what licenses do  
18 you hold?

19 DR. CAMERON: Currently, just a school  
20 psychology license through the Virginia Board of  
21 Health Professionals.

22 MS. CHEUK: And in Volume 2, Exhibit 56,

1 that's the thin black binder, is that your  
2 curriculum vitae, Exhibit 56?

3 DR. CAMERON: It is.

4 MS. CHEUK: And what is your professional  
5 background?

6 HEARING OFFICER ASCHMANN: Are you trying  
7 to qualify him?

8 MS. CHEUK: I sure am.

9 HEARING OFFICER ASCHMANN: Any objection?

10 MR. NANNI: We don't know anything  
11 about --

12 MS. CHEUK: I'm sorry?

13 MR. NANNI: We're not -- we're not  
14 experts in that field so --

15 DR. CAMERON: I will say, I have worked  
16 in this county for 13, going on 14 years.

17 HEARING OFFICER ASCHMANN: That's all  
18 right.

19 MS. CHEUK: Mr. Aschmann, I move to  
20 qualify Dr. Cameron as an expert in school  
21 psychology.

22 HEARING OFFICER ASCHMANN: So recognized.

1 MS. CHEUK: So, again, how long have you  
2 been in your current position?

3 DR. CAMERON: In this county, almost 14  
4 years.

5 MS. CHEUK: And what are your current job  
6 responsibilities as a school psychologist?

7 DR. CAMERON: I do testing -- academic  
8 and cognitive testing as well as assessment of  
9 self-harm risk or risk to others along, with  
10 counseling and consultation with teachers and  
11 behavior planning.

12 MS. CHEUK: Okay. And, on average, how  
13 many student psychological evaluations --

14 HEARING OFFICER ASCHMANN: Just ask him  
15 about REDACTED .

16 MS. CHEUK: Sure. Do you know REDACTED  
17 REDACTED ?

18 DR. CAMERON: Yes, I do.

19 MS. CHEUK: Do you know his legal  
20 guardian, Adam Van Scoyoc?

21 DR. CAMERON: Yes, I do.

22 MS. CHEUK: Do you also know his

1 caregiver, Jeff Nanni?

2 DR. CAMERON: Yes.

3 MS. CHEUK: When did you first meet them?

4 DR. CAMERON: In the fall of 2017.

5 MS. CHEUK: And how long have you worked  
6 with the family?

7 DR. CAMERON: Well, from the -- during  
8 the 2017-'18 school year, I was at Bradley  
9 Elementary. And after that, REDACTED went to Marshall  
10 Middle School and so that's a different  
11 psychologist who works there.

12 MS. CHEUK: Right.

13 DR. CAMERON: So just during this  
14 academic year.

15 MS. CHEUK: Okay. And in what capacities  
16 did you work with REDACTED?

17 DR. CAMERON: I did a tri-annual  
18 re-evaluation, and I did an update of that  
19 evaluation, and I also did counseling with him.  
20 And a kind of consult on the behavior plan.

21 MS. CHEUK: And how often did you meet  
22 with him for counseling?

1 DR. CAMERON: Ostensibly once a week on  
2 Fridays. There were a lot of things that happened  
3 on Friday, including sometimes picking him up  
4 early. So it worked out to a couple of dozen  
5 times.

6 MS. CHEUK: So you worked with him over  
7 the course of the 2017-2018 school year?

8 DR. CAMERON: Correct.

9 MS. CHEUK: Did you notice a change in  
10 him from the beginning of the school year versus  
11 the end of the school year?

12 DR. CAMERON: Well, in general, I thought  
13 he became more mature. And one thing I think you  
14 can bear in mind is that, for his grade, REDACTED has  
15 always been younger than most of the other  
16 students. But along with the maturity, though, I  
17 think -- and possibly even because of it -- he has  
18 had a kind of growing frustration over the feeling  
19 that everybody is watching over his shoulder and  
20 keeping tabs on him for every single thing he does,  
21 and he seemed to be a bit frustrated with that.

22 MS. CHEUK: So have you ever observed

1 [REDACTED] in the school setting?

2 DR. CAMERON: Yes, I have, on multiple  
3 occasions. Four or five.

4 MS. CHEUK: And in the classroom? On the  
5 playground?

6 DR. CAMERON: All of the above. Lunch,  
7 recess, PE.

8 MS. CHEUK: Okay. Dr. Cameron, if you  
9 wouldn't mind looking at Exhibit 16 in the exhibit  
10 binder in front of you. Do you recognize that  
11 document?

12 DR. CAMERON: Yes. That's the tri-annual  
13 reevaluation I did for [REDACTED] in 2018. He had been  
14 evaluated previously at his last school three years  
15 earlier, and it's our standard practice to  
16 reevaluate after three years.

17 MS. CHEUK: Did you review -- did you  
18 have the opportunity to review his student file  
19 before conducting the evaluation?

20 DR. CAMERON: Yes, I did. And as I  
21 usually do, in the part of the report that says  
22 "school performance," I have a summary of previous



1 assessments. Most of the -- well, he has  
2 consistently had high cognitive scores on both the  
3 CogAT, the Woodcock-Johnson cognitive, and other  
4 tests like that. So I was really not looking in  
5 this evaluation for a cognitive deficit, and I used  
6 an abbreviated cognitive measure and looked more  
7 closely at other aspects of functioning.

8 MS. CHEUK: So what instruments or  
9 components did you include in that evaluation?

10 DR. CAMERON: I did projected drawings,  
11 sentence completions, and a perception test, which  
12 looks at a child's ability to understand what's  
13 going on in pictures that depict certain social  
14 scenarios and come up with not just plausible  
15 antecedents to explain how they got in that  
16 position but if there's a conflict or some other  
17 problem, to explain how that could be resolved.  
18 Because I was interested in the question of this  
19 social functioning and abilities.

20 I also gave something called the BRIEF2,  
21 which looks at executive functioning. His previous  
22 eligibility had been for attention deficit and

1 hyperactivity disorder, and the BRIEF looks more  
2 broadly at your capacity to self-regulate both in  
3 terms of emotions and behavior.

4 And then I gave rating scales to three  
5 teachers and to REDACTED himself and one to Mr. Nanni,  
6 and I had them all complete those ratings scales,  
7 which look at quite a list of different emotional,  
8 behavioral, and other adaptive functioning aspects  
9 of classroom performance, things that might have an  
10 impact on the child's ability to do good academic  
11 work.

12 MS. CHEUK: Okay. And we're going to be  
13 going through this a little bit -- in a little bit  
14 more detail one by one if that's all right with  
15 you.

16 DR. CAMERON: Right.

17 MS. CHEUK: A couple of prefatory  
18 questions. Over how many sessions did you  
19 administer these instruments?

20 DR. CAMERON: I think it took -- well,  
21 what you do with the inventory type of systems,  
22 which are these questionnaires, maybe 160

1 questions, is you pass them out to the different  
2 individuals, and those come in, in days or  
3 sometimes weeks. But the direct aspects of the  
4 assessment I carry out in two sections. I might  
5 have been able to do it in one except the Roberts  
6 takes a long time to give.

7 MS. CHEUK: Okay. Did REDACTED have any  
8 significant medical history at that time?

9 DR. CAMERON: Well, the OHI is considered  
10 a medical history. He had an ADHD diagnosis.

11 MS. CHEUK: Do you know if he was taking  
12 medication at the time?

13 DR. CAMERON: He was not at the time, he  
14 told me.

15 MS. CHEUK: So taking the evaluation  
16 instruments in order, at the bottom of page 3, you  
17 reported the results for the Wechsler Abbreviated  
18 Intelligence Scales.

19 DR. CAMERON: Right.

20 MS. CHEUK: The second edition. What did  
21 your results show?

22 DR. CAMERON: Pretty well matched verbal

1 and non-verbal cognitive skills. Above average,  
2 although not outstanding, but around the 70th  
3 percentile. A standard score of 108. And that's  
4 pretty consistent with other evaluations that have  
5 been done before that and after that.

6 So a student with that ability should be  
7 able to make good grades academically with all  
8 other things being equal.

9 MS. CHEUK: Okay. And then moving on --  
10 if you could clarify, it looks like, on page 1 of  
11 your evaluation in the list of tests and evaluation  
12 procedures, the BASC-3 is listed there?

13 DR. CAMERON: Correct.

14 MS. CHEUK: And then, at the bottom of  
15 page 4, you have the BASC-2.

16 DR. CAMERON: Right.

17 MS. CHEUK: Which test did you  
18 administer?

19 DR. CAMERON: The BASC-3. It was around  
20 this time -- we updated our BASCs, but I had not  
21 updated my little framework in the computer that I  
22 type reports in.

1 MS. CHEUK: Okay. So you administered  
2 the BASC-3.

3 DR. CAMERON: Right.

4 MS. CHEUK: How many teachers completed  
5 the rating inventory?

6 DR. CAMERON: Three teachers.

7 MS. CHEUK: Three teachers. And did  
8 Mr. Nanni and Mr. Van Scoyoc complete an inventory?

9 DR. CAMERON: I think they collaborated  
10 on one. At any rate, I got one inventory back, and  
11 it had Mr. Nanni's name on it.

12 MS. CHEUK: And how did the scores differ  
13 between the teacher inventories you received and  
14 the one you received from REDACTED's guardian or  
15 caregiver?

16 DR. CAMERON: I think that you can see  
17 from the graph that the teacher ratings were mostly  
18 within average range. Now, there was one -- or at  
19 least marginal range. And there was one score,  
20 atypicality for one teacher in one class, and that  
21 was Mrs. Massie, I believe. And that was the only  
22 elevated score.

1 All of the home rating scores were  
2 elevated, some at the very top of the chart. And  
3 on the right side, where it's flipped, so that  
4 higher is better, these are adaptive scales, and  
5 almost all of the teacher ratings were average  
6 range but most of the home ratings were in clinical  
7 significant deficit range.

8 And so what you have is an unusually  
9 large difference between home ratings and school  
10 ratings. There's no overlap really. And the  
11 problem with this is -- well, number one, in  
12 programs of this sort, which are computer scored,  
13 when you get all of these really high ratings, it  
14 kicks out a little warning that says there are  
15 validity questions to this and you should be very  
16 cautious in interpreting these results, but also,  
17 just in looking at them, they fail to isolate  
18 anything, someone who had all the diagnoses in the  
19 DSM-5 would have this profile where everything is  
20 elevated. I haven't met anyone with all of the  
21 diagnostic criteria met, but it doesn't really tell  
22 you anything that would distinguish someone, say,

1 with autism or emotional disability from someone  
2 who had attention problems, atypicality, conduct  
3 problems, aggression. It's just all elevated, and  
4 so it's not terribly informative, but most of all,  
5 it raises validity questions.

6 And that is not necessarily to say that  
7 someone's deliberately making up these answers, but  
8 at the very least, either the child is erratically  
9 different in his conduct at home or there's some  
10 sort of real misperception about what normal is and  
11 what this behavior is in relation to the  
12 (indiscernible).

13 MS. CHEUK: Okay. Did [REDACTED] complete  
14 this inventory as well?

15 DR. CAMERON: On the next page, because  
16 the computer scores it separately, [REDACTED] completed  
17 the self-rated version of the BASC --

18 MS. CHEUK: This is on page 6?

19 DR. CAMERON: Page 6. And most of his  
20 scores were average range. He's had a couple of  
21 very slightly marginal elevations and both fell  
22 below 65, which is our own school criterion for

1 considering them to be, you know, of note. But it  
2 is not the picture of a child who views himself as  
3 having a whole lot of problems.

4 MS. CHEUK: And so the bottom of that  
5 same page and on to the 7th page, you reported the  
6 results of the behavior rating inventory of  
7 executive functioning, the BRIEF2.

8 DR. CAMERON: Correct.

9 MS. CHEUK: Will you please share those  
10 results with the hearing officer.

11 DR. CAMERON: Okay. The BRIEF was  
12 completed by two of REDACTED's fifth grade teachers,  
13 and it looks at aspects of executive functioning.  
14 And for those who aren't psychologists, I'd clarify  
15 that as more peripheral aspects of cognition and  
16 behavioral self-regulation where you're not really  
17 looking at the child's smarts or knowledge. You're  
18 looking at -- and I'll go through the list: His  
19 ability to inhibit impulses, to self-monitor  
20 without someone standing over her and, you know,  
21 telling him to do this, don't forget to do this;  
22 Shift, which is the ability to rapidly



1 move back and forth between different tasks, at  
2 someone else's behest, usually;

3 Emotional self-control, your ability to  
4 manage your feelings;

5 Task initiation, which is getting started  
6 on things;

7 Working memory, which is holding your  
8 thoughts in mind while you're at one kind of  
9 superordinate level while you're working through a  
10 task;

11 Planning organization, which is thinking  
12 ahead and being organized;

13 Task monitoring, which is the specific  
14 type of self-monitoring that addresses a task  
15 you're working on;

16 And general organization of materials.

17 And he had, at most, some marginal scores  
18 on the BRIEF. I think the highest was a 65, and  
19 several average range scores, but the average of  
20 those scores did stand up at significant, and that  
21 was true for both the cognitive self-regulation  
22 index, global executive composite, and that I would

1 describe that, even though he did not have, by  
2 teacher ratings, significant attention problems on  
3 the BASC, this is probably what they're talking  
4 about when they mention his having some  
5 difficulties with self-regulations.

6 Now, he's making As and Bs and he's in  
7 some advanced classes, but he is a little less  
8 self-possessed and able to self-regulate than most  
9 kids in his grade, although he's also a little  
10 younger than most kids in this grade.

11 Now, as both a spoiler alert and putting  
12 this in context, of all of the tests that were done  
13 in the school system and outside the school system,  
14 this is really the only one where **REDACTED** was  
15 directly involved that showed any creative  
16 elevation overall. I mean, this is -- if you were  
17 to boil it down and exclude parent reports, this is  
18 about it.

19 And we did have an eligibility meeting --  
20 perhaps I'm jumping the gun -- but the only reason  
21 this didn't amount to a rolling over of the low HI  
22 label was no one was seeing an educational impact

1 at the time.

2 MS. CHEUK: We'll get to that question a  
3 little later.

4 DR. CAMERON: Okay.

5 MS. CHEUK: But we'll continue to go on  
6 through the report.

7 DR. CAMERON: All right.

8 MS. CHEUK: Then, next, you looked at the  
9 Roberts A perception 2.

10 DR. CAMERON: Right.

11 MS. CHEUK: What does that measure?

12 DR. CAMERON: This is a series of  
13 pictures, and they're quite a few cards in the kit.  
14 You only pull out ones that are relevant to the age  
15 and cultural subgroup and gender of the child  
16 you're testing. 16 of those.

17 And he's asked to interpret the scenarios  
18 depicted in these cards one at a time and the --  
19 there's a kind of categorization system that comes  
20 with the administration of the Roberts. But, for  
21 example, the paradigm that he's to follow with each  
22 card is that what's happening in this picture, how

1 did this come about and what you think is going to  
2 happen next, or how will this problem be resolved.

3 And so I noted that, in one category that  
4 you put responses in is called popular poll,  
5 because some of them get very common answers that  
6 everyone gives, and he gave a lot of those, which  
7 is a good thing if you're ruling out abnormalities.

8 And I noted he identified probable  
9 emotions driving people's actions as well has  
10 plausible outcomes. And this next one's important:  
11 Interpretations of ambiguous situations tended to  
12 be benign. For example, a girl standing next to  
13 another girl lying on the ground is trying to get  
14 her sister to come with her. Her sister is  
15 exhausted.

16 Now, I have had a few kids, often  
17 troubled ones, who will say something like, Well,  
18 she just killed this girl and she's trying to  
19 figure out where to hide the body. That's not  
20 REDACTED. He's giving a Beaver Cleaver answer.

21 And in another one, there's a boy sitting  
22 up in bed with an alarmed expression on his face.

1 He slept in too late, he's going to be late for  
2 school and probably get a terrible grade.

3 And so he's given pretty innocuous  
4 answers in addition to their being pretty common  
5 ones.

6 Positive and negative outcomes were both  
7 balanced, and he wasn't just giving Pollyanna  
8 answers; he was giving realistic ones.

9 Negative emotions included fear,  
10 jealousy, and anger but never hate, vengeance, or  
11 other vicious inclinations.

12 And I noted one slight deficit.  
13 (Indiscernible) usually involved consequences such  
14 as grounding or lecturing but seldom mutual  
15 problem-solving. So I submit his social insight  
16 was age normal with interpersonal problem-solving  
17 skills weaker.

18 And he perceives adult direction as a  
19 means of external control rather than a guide to  
20 self-regulation. And I said the only unusual thing  
21 is that bright children -- and I call him a bright  
22 child -- are usually ahead of the curve in that.

1 MS. CHEUK: And then with the sentence  
2 completion exercise, how did [REDACTED] perform on that?

3 DR. CAMERON: And let me add something  
4 else. If I had seen difficulty -- real difficulty  
5 with social perception, I might have gone to more  
6 direct autism-type rating tests, but I did not. So  
7 sentence completion survey, it's 30 partially  
8 completed sentences. The student finishes them  
9 according to his own thoughts and feelings, and  
10 they can be scored for positivity, negativity, or  
11 you can just gather informal generalizations.

12 And a majority of [REDACTED]'s completions  
13 were positives. They reflected generally good  
14 self-esteem and optimism about the future. Most  
15 interests were typical for a boy his age, and I  
16 gave some examples, although sports were  
17 conspicuously absent.

18 And he was open and citing some  
19 shortcomings, not always being careful about  
20 things, not always being nice to others. And he  
21 also indicated some ambivalence about family and  
22 friends, but there were no indications of serious

1 unresolved emotional conflict, which actually kind  
2 of surprised me because he had a pretty difficult  
3 childhood.

4 MS. CHEUK: So you mentioned just a  
5 second ago you didn't consider administering any  
6 autism (indiscernible).

7 DR. CAMERON: Not at that time.

8 MS. CHEUK: Did you consider any other  
9 tests that might be appropriate?

10 DR. CAMERON: I did not. This was a  
11 second evaluation, and the real thing on the table  
12 was the OHI ADHD. And if the teachers had come in  
13 saying, Oh, this is having a huge educational  
14 impact, I, frankly, could have gone either way in  
15 making a decision about eligibility, not because of  
16 the BASC, which was -- did not indicate attention  
17 problems but because of his general weaknesses in  
18 executive functioning. But I think he's bright  
19 enough to balance those out and function okay in  
20 the classroom. That's what the other teachers were  
21 saying.

22 MS. CHEUK: In looking at your summary,

1 then, what did you conclude?

2 DR. CAMERON: Well, I sort of reiterated  
3 that there were big differences in the home and  
4 school ratings on the BASC, and that per REDACTED s  
5 own ratings, most scales were average range and  
6 that only in the global sense -- the BRIEF did not  
7 really take out any particular thing as being a  
8 marked weakness. For example, I mean, his --  
9 anything considered individually might be marginal  
10 but within normal limits, but the aggregate often  
11 indicated someone who does have difficulty with  
12 self-regulation.

13 MS. CHEUK: Did you -- and are you --

14 DR. CAMERON: And that was about it.

15 MS. CHEUK: Okay. Did you present your  
16 report -- your report to a meeting at REDACTED s  
17 eligibility --

18 DR. CAMERON: Yes, I did.

19 MS. CHEUK: -- in January?

20 Did REDACTED s guardian or caregiver ever  
21 ask to meet with you to go over the evaluation?

22 DR. CAMERON: Did not.



1 MS. CHEUK: If they had, would you have  
2 done so?

3 DR. CAMERON: Yes, I would.

4 MS. CHEUK: Did anyone ever question the  
5 validity of your rating scales at that meeting?

6 DR. CAMERON: To the best of my  
7 recollection, no one questioned those rating  
8 scales.

9 MS. CHEUK: Okay. Did any teacher ever  
10 come to you to say that you had misrepresented  
11 their input --

12 DR. CAMERON: No.

13 MS. CHEUK: -- on your report?

14 So let's look back at Exhibit 14. These  
15 have already been identified as documents related  
16 to the team's deliberations on January 31st, 2018.  
17 Did you attend that eligibility?

18 DR. CAMERON: Yes, I did.

19 MS. CHEUK: Did you actively participate  
20 in that discussion?

21 DR. CAMERON: Yes, I did.

22 MS. CHEUK: In looking at the bottom of

1 the third page of that exhibit, have you had an  
2 opportunity to review the summary of your  
3 psychological evaluation?

4 DR. CAMERON: I'm looking at the --  
5 (indiscernible).

6 MS. CHEUK: Exhibit 14.

7 DR. CAMERON: I'm pretty sure I'm on  
8 Exhibit 14, but I'm seeing that on page 1.

9 MS. CHEUK: Right. It's page one of the  
10 summary. It's page 3 of the exhibit.

11 DR. CAMERON: Oh, okay.

12 MS. CHEUK: It's three pages in to the  
13 exhibit. Sorry about that.

14 DR. CAMERON: Oh, okay. Yeah, those are  
15 accurate.

16 MS. CHEUK: Okay. And do you recall what  
17 the eligibility determination the team made that  
18 day?

19 DR. CAMERON: Not eligible. OHI.

20 MS. CHEUK: And did you agree with that?

21 DR. CAMERON: I did.

22 MS. CHEUK: And you briefly touched on it

1 a second ago --

2 DR. CAMERON: Right.

3 MS. CHEUK: -- but if you could state it  
4 again, why did you believe --

5 DR. CAMERON: We were not seeing  
6 significant educational impact and certainly not a  
7 need for specialized instruction.

8 MS. CHEUK: Let's look at Exhibit 31. Do  
9 you recognize that document?

10 DR. CAMERON: Yes, I do. That was an  
11 update to the psychological evaluation that had  
12 been done about four months earlier.

13 MS. CHEUK: So when did you evaluate  
14 REDACTED for this update?

15 DR. CAMERON: That was in May 20th, 2018.

16 MS. CHEUK: And over how many sessions  
17 did you evaluate him for the update?

18 DR. CAMERON: Well, this was another one  
19 where I passed out GADS forms -- Gilliam Asperger's  
20 Disorder Scale -- for teachers and gave them, you  
21 know, a week or two to complete it, and then I  
22 scored their individual forms, combined their raw

1 scores and averaged them and came out with a very  
2 simple-to-read graph, which is here on the second  
3 page, which shows that, in all areas -- now, the  
4 GADS is looking particularly at kind of  
5 high-functioning autism that would be in question  
6 with a student like REDACTED, because there are forms  
7 that are more designed for intellectually disabled  
8 children who bang their heads on cabinets and  
9 things. That's not what this is about. This is  
10 looking particularly at Asperger's disorder or  
11 high-functioning autism.

12           And the scales -- there are four scales  
13 on it, and I can read them to you. And they are  
14 social interaction, repetitive patterns, cognitive  
15 patterns, pragmatic skills, and then overall  
16 Asperger's function. And all of those are way  
17 below the minimum threshold for considering an  
18 Asperger disorder diagnosis, and that's the input  
19 from basically four (indiscernible) at that time  
20 who had known him -- one good thing about my doing  
21 that in May was they had known him the whole year.

22           MS. CHEUK: Okay. And what did you

1 understand the reason for the update to be?

2 DR. CAMERON: That, now, we were  
3 looking -- first of all, Mr. Nanni and Mr. Van  
4 Scoyoc had requested an outside evaluation, and  
5 they were now looking at emotional disability and  
6 autism spectrum disorder as possible labels.

7 MS. CHEUK: So you specific -- and you  
8 specifically administered the GADS?

9 DR. CAMERON: I felt that I had  
10 adequately ruled out emotional disability with my  
11 own evaluation, and after all, they were going to  
12 test for that, among several other things. I think  
13 the entire list was a couple of dozen instruments  
14 in the outside eval. But I wanted to look  
15 particularly at the high-functioning autism.

16 MS. CHEUK: Okay. And have you received  
17 training on the administration of the GADS?

18 DR. CAMERON: I have. Now, frankly, not  
19 directly on that particular instrument but on  
20 several autism rating scales, all of which are tied  
21 directly to the DSM criteria for autism spectrum  
22 disorder.

1 MS. CHEUK: And do you believe the test  
2 you administered in May 2018 was valid?

3 DR. CAMERON: Yes.

4 MS. CHEUK: Are you aware that Mr. Van  
5 Scoyoc has objected to your method of the  
6 administration of this test?

7 DR. CAMERON: Well, I don't know if you  
8 mean administration or scoring.

9 MS. CHEUK: Scoring.

10 DR. CAMERON: Well, it's kind of two  
11 separate questions, and I think he misunderstood  
12 the nature of averaging. In this particular case,  
13 what I average were the raw scores that came in  
14 from each teacher, and then having taken that  
15 average, I went to the standard score conversion  
16 chart and got standard scores.

17 But even if I had used standard scores,  
18 there's no particular reason not to use standard  
19 scores and average them. And we get into some  
20 isoterics of psychometrics, but I'll explain to you  
21 briefly. The one hazard in averaging standard  
22 scores is, if they happen to be something like

1 T-scores where you have a ceiling of 90 and you  
2 take scores of 90, which might, because it's a  
3 ceiling, they might actually be much higher, and  
4 then you average them with lower scores, then you  
5 might get an average right here when, in fact,  
6 because the ceiling was 90, the real score could  
7 have been up here.

8 But that's not the case, because these  
9 are nowhere near the ceiling, and if I had used  
10 standard scores, they would not have been a  
11 problem. The short answer to your question is  
12 there are times when you should be cautious enough  
13 averaging standard scores, but usually, you can get  
14 by with it, and in this particular case, I didn't  
15 even go with standard scores. I went with raw  
16 scores.

17 MS. CHEUK: Okay. And so did this  
18 testing reveal the need to complete any additional  
19 testing in your opinion?

20 DR. CAMERON: I felt there was a fairly  
21 clear rule-out, especially since, by now, I had  
22 known REDACTED for a year, and I had known his

1 teachers, and I had started to take with a grain of  
2 salt some of the interpretations of behavior I was  
3 getting from his guardians. And so, to me, I was  
4 just waiting to see what would come in from their  
5 outside evaluation. I was done.

6 MS. CHEUK: Okay. If you could flip back  
7 to Exhibit 28. These documents --

8 DR. CAMERON: Okay.

9 MS. CHEUK: Are you on Exhibit 28?

10 DR. CAMERON: I am, if that's the Kellar  
11 report.

12 MS. CHEUK: No, I think you're one ahead.

13 DR. CAMERON: You're correct. I am.  
14 Okay.

15 MS. CHEUK: These have already been  
16 identified as the eligibility documents for the  
17 July 10th, 2018, meeting.

18 DR. CAMERON: Right.

19 MS. CHEUK: Did you attend that meeting?

20 DR. CAMERON: Yes, I did.

21 MS. CHEUK: Did you actively participate  
22 in that discussion?



1 DR. CAMERON: Yes, I did.

2 MS. CHEUK: On the bottom of the third  
3 page or the first page of the eligibility summary,  
4 was a psychological report per FCPS. Do you  
5 believe that's an accurate summary of your  
6 psychological update?

7 DR. CAMERON: Yes. I think the only  
8 correction I would make was it was GADS across four  
9 teachers.

10 MS. CHEUK: Okay. And do you recall what  
11 eligibility determination the team made that day  
12 with regard to autism and emotional disability?

13 DR. CAMERON: Not eligible.

14 MS. CHEUK: And I'd like to go through  
15 the independent evaluation before we get to your  
16 conclusions. If we could go through Exhibit 29.

17 DR. CAMERON: Okay.

18 MS. CHEUK: Do you recognize that  
19 document?

20 DR. CAMERON: Yes, I do.

21 MS. CHEUK: When did you first become  
22 aware of this report?

1 DR. CAMERON: I think it was shortly  
2 before the meeting that we had in July.

3 MS. CHEUK: So you reviewed it prior to  
4 July?

5 DR. CAMERON: I did.

6 MS. CHEUK: Who completed it?

7 DR. CAMERON: Dr. Giroux of Inova Kellar.

8 MS. CHEUK: Is that a medical doctor?

9 DR. CAMERON: He's a clinical  
10 psychologist.

11 MS. CHEUK: Have you ever reviewed his  
12 reports before?

13 DR. CAMERON: I have seen some reports  
14 from Inova Kellar. I don't remember seeing one  
15 from him, but, often, they're not very conspicuous  
16 with the name. And as a matter of fact, I think if  
17 you look at this particular -- yeah, this does have  
18 it on the very last page. I just don't remember  
19 seeing his name before.

20 MS. CHEUK: Did he or anyone from his  
21 office contact you about this evaluation?

22 DR. CAMERON: No, they did not.

1 MS. CHEUK: In looking at the tests  
2 administered on page 3, do you believe those  
3 testings batteries administered were appropriate?

4 DR. CAMERON: Well, my thought is that,  
5 in retrospect, Dr. Giroux might have done things a  
6 little bit differently, but coming into a  
7 completely new situation, that's a reasonable  
8 collection of tests to give. Rather lengthy.

9 MS. CHEUK: And, briefly, what areas of  
10 functioning did he test?

11 DR. CAMERON: Cognitive ability, with the  
12 WISC-5, achievement -- academic achievement scores  
13 with the Wechsler individual achievement tests,  
14 several measures of -- several autism rating  
15 scales, and in one direct and very comprehensive  
16 autism diagnostic kit, the ADOS-2. And then a lot  
17 of other small tests that kind of look at  
18 particular aspects of autism that might be there,  
19 everything from social communication to sensory  
20 experiences, repetitive behaviors, and some tests  
21 that look more broadly at behavior and emotion,  
22 like the Conners Comprehensive Behavior Rating

1 Scales, which is pretty comparable to the BASC,  
2 which I gave.

3 MS. CHEUK: Okay. Did you have any  
4 concerns with any of the data that he reported?

5 DR. CAMERON: I am perfectly ready to  
6 accept the data as he reported them. The concerns  
7 that I have are -- and, again, they can be, to some  
8 degree, excused by the fact that I had the  
9 advantage of knowing REDACTED for a long time, his  
10 teachers for a long time, and having gotten a kind  
11 of advanced sampling of the wildly different  
12 reports he got from home versus school, that I  
13 think that he -- in his conclusions section -- and  
14 I apologize if I'm jumping the gun -- but he seems  
15 to kind of split the difference between the two,  
16 and what I finally ended up doing was saying, as a  
17 school psychologist, you know, I'm supposed to be  
18 primarily concerned with what the child does in the  
19 school. We're not seeing it in the school. I'm  
20 not going to worry about the home piece for our  
21 purposes.

22 But he splits the difference and comes

1 out with conclusions that state, for example, mild  
2 autism. So it's that way he wraps the data that I  
3 question, not the way he reports the data. And  
4 he's always very clear where he got his information  
5 that probably most of it came from Mr. Van Scoyoc  
6 and Mr. Nanni, and that's in the form of  
7 second-parties questionnaires. And he's very  
8 forthright with the results he got from direct  
9 observation or direct testing with REDACTED.

10 So since he's very clear about that, I  
11 can't fault his presentation or his conclusions.

12 MS. CHEUK: So it would be fair to say  
13 you have concerns about the conclusions --

14 DR. CAMERON: Yes, I do.

15 MS. CHEUK: -- but not the data.

16 DR. CAMERON: Yes.

17 MS. CHEUK: Okay. So, overall -- and  
18 we'll go through all of these in a -- similar to  
19 how we just went through your psychological  
20 reports.

21 DR. CAMERON: Okay.

22 MS. CHEUK: But, overall, what did the

1 results indicate about [REDACTED]'s functioning?

2 DR. CAMERON: I think if you looked at  
3 all of the tests that [REDACTED] took personally  
4 visually by himself or by interview, by direct  
5 testing. And the little interview that comes from  
6 teachers, you don't see virtually no evidence of  
7 autism symptoms. If you look at the inventories  
8 that were completed by Mr. Nanni and Mr. Van  
9 Scoyoc, he would not only be off the charts for  
10 autism but as with the BASC, off the charts for  
11 virtually every possible syndrome someone could  
12 have. So it's -- to me, it's impossible to  
13 reconcile those two things.

14 MS. CHEUK: Specifically on pages 3 to 4,  
15 Dr. Giroux comments on [REDACTED]'s behavior that he  
16 observed. What is your takeaway here?

17 MR. NANNI: Well, he's doing an informal  
18 mental status report here, and really, everything  
19 is normal as it could possibly be reported  
20 agreeable. Adequate eye contact, which, by the  
21 way, you don't see in Asperger's. Oriented to  
22 place, time, situation and person; expressive

1 language skills normal; attention and  
2 concentration, normal; behavior controlled; affect,  
3 normal; mood, happy. Thought process is normal.  
4 Insight into difficulties judged to be fair, as was  
5 REDACTED's judgment about how to respond in a variety  
6 of situations.

7 Now, his next part is the ADOS 2. And of  
8 all of the tests on that long list, this is the  
9 most comprehensive. I'm familiar with it, I have  
10 been trained in it. I usually don't do it. I have  
11 done several. But it takes two hours, and it  
12 usually takes two people to do it.

13 MS. CHEUK: If I might interrupt you, he  
14 is with the subject being tested the whole time?

15 DR. CAMERON: Yes. This is a direct --

16 MS. CHEUK: Direct.

17 DR. CAMERON: -- testing where you  
18 present him with a number of situations, and some  
19 of them are covert, like giving him a puzzle to do  
20 where there's a piece missing, and you want to see  
21 how he deals with the fact that you have left out a  
22 piece. Or you interviewed him about his future

1 aspirations, hopes, how he would handle certain  
2 situations.

3 The booklet that goes with the ADOS is 24  
4 pages long. It is a monster of a test, but it is  
5 considered the gold standard in autism. And where  
6 I have used it would be in situations much more  
7 common than this one where the parents are really  
8 objecting to the idea that the child might have  
9 autism, and I need a real heavy-duty test to back  
10 up the label. This is a go-to test.

11 Now, there's -- it's scaled. There's a  
12 standard score that comes out of it. It's in  
13 dessiles (ph), which means that the first dessile  
14 is the lowest score, meaning the fewest possible  
15 symptoms of autism you could have, and the 10th  
16 dessile would mean he's at the absolute top of the  
17 charts with every possible symptom.

18 And so REDACTED got the lowest possible  
19 score on the ADOS, which is a 1. And whatever else  
20 might stand out in this report, I have seen quite a  
21 few reports that use the ADOS, most of them outside  
22 of house. I have never seen one where someone got



1 an autism diagnosis after getting a 1 on the ADOS.

2 MS. CHEUK: Can I interrupt you?

3 DR. CAMERON: Yes.

4 MS. CHEUK: So **REDACTED** scored a 1, and that  
5 would indicate what?

6 DR. CAMERON: There's no lower score.

7 That is as normal behavior as you can get. And he

8 describes a little bit of that. His language was

9 normal, non-echoed, no stereotype use of words.

10 Reciprocal social interaction, good eye contact

11 coordination, use of coordinating use of

12 verbalization and gestures, identified thoughts and

13 feelings of others, no unusual sensory compulsions,

14 rituals, repetitive (indiscernible) in use or

15 interest.

16 So he kind of segues from that into a

17 more general --

18 MS. CHEUK: Is that the only area of the

19 report where Dr. Giroux discusses the ADOS?

20 DR. CAMERON: It seems to be.

21 MS. CHEUK: Did Dr. Giroux, going on with

22 his behavior observations, did he note any

1 hyperactivity or repetitive behaviors in his  
2 interviews with [REDACTED]?

3 DR. CAMERON: No.

4 MS. CHEUK: Was [REDACTED] distracted?

5 DR. CAMERON: No, although I would have  
6 been after three days of testing.

7 MS. CHEUK: What did Dr. Giroux report  
8 regarding his emotional regulation during the  
9 testing?

10 DR. CAMERON: Controlled.

11 MS. CHEUK: And how about, again,  
12 attentional issues?

13 DR. CAMERON: They were not problematic.  
14 He says attentive, not unduly distracted by noises  
15 inside or outside the evaluation room.  
16 Well-controlled, attended each task to the best of  
17 his ability. Persisted well on difficult tasks.  
18 Displayed no atypical behaviors.

19 MS. CHEUK: And then how does he conclude  
20 that paragraph?

21 DR. CAMERON: The result of the present  
22 evaluation are judged to be an accurate assessment

1 of [REDACTED]'s functioning.

2 MS. CHEUK: So moving on, Dr. Giroux  
3 looked at the intelligence testing, and generally,  
4 how do you interpret that with regard to [REDACTED]'s  
5 ability?

6 DR. CAMERON: Average to high average.  
7 High average in the most core aspects of IQ, and  
8 then average in things like working memory and  
9 processing speed.

10 MS. CHEUK: Okay. And so anything else  
11 remarkable you would like to mention there with  
12 regards to the intelligence?

13 DR. CAMERON: Not in that part. There  
14 are, later, subtests of other instruments where  
15 they included cognitive pieces, and so we haven't  
16 completely left the subject of cognitive  
17 functioning, but spoiler again -- nothing below  
18 average in my cognitive assessment given in this  
19 whole set of evaluations.

20 MS. CHEUK: Okay. So moving into some of  
21 those specifics, Dr. Giroux next administered the  
22 NEXY-2 (ph), and the results of that are at the

1 bottom of page 7.

2 DR. CAMERON: Right. Again --

3 MS. CHEUK: What does that test? What  
4 does the NEXY-2 test?

5 DR. CAMERON: The NEXY-2 -- that acronym  
6 stands for neuropsych testing -- again, branches  
7 out into aspects -- peripheral aspects of cognitive  
8 functioning that can have a bearing on both  
9 academic performance and even social performance in  
10 the school.

11 So some of -- he showed some varying  
12 skills. His design copies score was 18, which  
13 would be equivalent to a score of 140, standard  
14 score. But, to me, the interesting one was affect  
15 recognition, and he came out with what would be a  
16 standard score of 120, superior range. And in that  
17 part of the NEF-C, they're presented with these  
18 pictures of people with different expressions on  
19 their faces, and you have to match the ones that  
20 are registering similar emotions. And kids on the  
21 spectrum have great difficulty with that.

22 You also have to look at a scene

1 depicting an emotionally charged situation and  
2 someone who is basically seen and then you pick  
3 which picture on the bottom is most likely to be  
4 the expression he would have in that situation.

5           You know, a lot of difficulty these  
6 children on the spectrum have is with non-verbal  
7 aspects of social functioning, reading other people  
8 in situations. So he came out high average in  
9 that -- no, no, superior in that, at the 91  
10 percentile, a standing score of 120.

11           So he did fine on that.

12           MS. CHEUK: And then the NEF-C (ph) also  
13 looked at executive functioning. What was the  
14 overall take-away there at the bottom of that  
15 paragraph?

16           DR. CAMERON: These are performance-based  
17 executive functioning tests, and he came out  
18 average in all of those areas, although some of it  
19 you would say is average range. Design fluency,  
20 how quickly he could do designs, would be a  
21 standard score of 90, which is within average  
22 range.

1           So that's not his strong suit, but it's  
2 not below average either.

3           MS. CHEUK: And what does Dr. Giroux  
4 conclude? Did he demonstrate adequate executive  
5 functioning?

6           DR. CAMERON: Yes, he did.

7           MS. CHEUK: And with visio-spatial  
8 processing?

9           DR. CAMERON: He describes that as  
10 performing well. Standard score of 18, which is  
11 like -- let's see, that is a -- he's got a 140. So  
12 since that's in superior range, I think that's more  
13 than well.

14          MS. CHEUK: Okay. And then the social  
15 perception again, what was the conclusion at the  
16 bottom of that section?

17          DR. CAMERON: That he is able to  
18 accurately identify emotional states of others, has  
19 an understanding of what thoughts and feelings they  
20 may be experiencing. Pretty consistent with my  
21 Roberts findings.

22          MS. CHEUK: Thank you. Dr. Giroux next

1 moved into assessing [REDACTED]'s achievement. And what  
2 does he report about [REDACTED]'s achievement?

3 DR. CAMERON: In all the general areas of  
4 achievement, which include total reading, basic  
5 reading, reading comprehension, and fluency, math,  
6 math fluency, written expression, oral language,  
7 everything was average range to superior. Yeah,  
8 oral language overall was superior. That was his  
9 strong suit. Comprehension, standard score of 134.  
10 Nothing was below average except within his average  
11 range written expression composite. If you hand  
12 him a blank piece of paper and say, "Write an  
13 essay," which was on, I believe the total 4, he's  
14 not very productive. Give him 15 minutes and he  
15 write a couple of sentences.

16 MS. CHEUK: So the essay composition  
17 piece of written expression --

18 DR. CAMERON: That piece was weak.

19 MS. CHEUK: -- was below average.

20 DR. CAMERON: Yes.

21 MS. CHEUK: And what was the complete  
22 score of written expression?

1 DR. CAMERON: 94 average. So, basically,  
2 no real concerns there.

3 MS. CHEUK: Okay. So now, on page 12,  
4 Dr. Giroux summarizes **REDACTED**'s results of the  
5 RESCA-E. Are you familiar with that test?

6 DR. CAMERON: Yes.

7 MS. CHEUK: What does that assess?

8 DR. CAMERON: It measures social  
9 communication skills, which is the part of -- which  
10 is the part of autism where both verbally and  
11 nonverbally a child might have difficulty with  
12 social reciprocity, either in the give and take of  
13 conversation or in gestures and interpreting  
14 others' body language.

15 And they -- the findings were that he was  
16 average in the core areas, which include visual and  
17 verbal clues to help him understand the emotional  
18 expression of others, high average ability to use  
19 appropriate words to share his thoughts and  
20 feelings when interacting with others, outreach  
21 ability to use appropriate non-verbal gestures to  
22 communicate feelings.



1           And then, on one, he calls this low.  
2           It's actually within a standard deviation of the  
3           meaning, inferring the meaning of figurative  
4           language and inferred meaning in social situations.  
5           That's a standard scale score of 7, which is like  
6           an 85, which is within one standard deviation.  
7           When we report scores in our evaluations, we would  
8           call that average.

9           He correctly identified 18 of 22  
10          scenarios, which indicates that when he's unsure of  
11          what's happening, he may need to request further  
12          information before responding.

13          MS. CHEUK: Okay. And then that test  
14          also included an inventory completed by -- or  
15          compare that to the social communication inventory  
16          completed by REDACTED's caregiver and guardian.

17          DR. CAMERON: Right. And I think there's  
18          a little box that shows that. And this is where --  
19          in reading these reports, you have to be a little  
20          bit careful because you have got all of these  
21          scales here, and here, he actually does refer to  
22          that seven as low average. But these first five

1 categories are ranging from 85 to 110 on social  
2 communication. And now comes the questionnaire  
3 part, which is these last two little things that  
4 says social communication inventory, Adam, and then  
5 another by Jeff. And those come up with scores of  
6 70 and 66, which is where an ID child would be  
7 performing. That is in --

8 HEARING OFFICER ASCHMANN: What type of  
9 child?

10 DR. CAMERON: Intellectual deficiency,  
11 what we used to call mentally retarded.

12 HEARING OFFICER ASCHMANN: I just didn't  
13 want him to hear you [verbatim].

14 DR. CAMERON: Well, we have gone to IDEA  
15 in schools, probably not more generally, as a  
16 substitute for mental retardation, although it will  
17 evenly take on negative connotations too. That's  
18 how it works.

19 So --

20 MS. CHEUK: But could you --

21 DR. CAMERON: So, suddenly, we go from  
22 someone who is basic average in all those areas to

1 being way below average and very low range.

2 MS. CHEUK: Could you please review the  
3 last paragraph on page 12 of that evaluation and  
4 summarize that in your own words.

5 DR. CAMERON: Overall, the results  
6 indicate [REDACTED] is able to express and comprehend  
7 oral and presented information and understand the  
8 nature of pragmatic language skills. However,  
9 observational reports, and by my own parenthesis,  
10 that would be Jeff and Adam, indicate difficulty  
11 with self-control when interacting with others,  
12 attention to others, emotional regulation when  
13 situations don't go as expected, self-confidence  
14 when interacting with others and understanding the  
15 intent of other actions when emotionally aroused.

16 So it's kind of a refrain without this  
17 report that the direct testing, direct observation  
18 would give one result, however, and then as  
19 reported.

20 MS. CHEUK: Are you aware if Dr. Giroux  
21 ever observed [REDACTED] in the school setting?

22 DR. CAMERON: I don't know whether he did

1 or not.

2 MS. CHEUK: Turning to the Conner's  
3 inventory on page 13 --

4 DR. CAMERON: Right.

5 MS. CHEUK: -- what does the Conner's  
6 inventory measure?

7 DR. CAMERON: It is a comprehensive  
8 behavior rating school that is pretty similar to  
9 the BASC-3 that I gave with some differences, but  
10 the main point is it goes beyond things like  
11 hyperactivity to other types of emotional  
12 difficulty someone might have.

13 And they have capped the T-score, which  
14 is the standard score, at 90 so that the very  
15 highest score anyone could possibly get would be a  
16 90, and the overwhelming majority of ratings by  
17 Adam and Jeff to all of these areas is 90.

18 So, once again, we have some difficulty,  
19 even if we took those as face value, distinguishing  
20 what might be a problem and what wouldn't be a  
21 problem.

22 MS. CHEUK: Next, Dr. Giroux measured the

1 MESSY -- or used the MESSY-2. What is the MESI-2,  
2 and I'm on page 15 now.

3 DR. CAMERON: Right. That is -- let me  
4 remember. Let me look at my cheat sheet. Oh,  
5 yeah. It's called the Matson Evaluation and Social  
6 Skills in Youth, and it's a -- it comes in school  
7 and home rating forms, it --

8 MS. CHEUK: It says teachers presented  
9 information here as well.

10 DR. CAMERON: Right. And the -- it also  
11 gives T-scores and has categories of significant  
12 and nonsignificant. But what I remember about  
13 reading this section is -- and this is one reason  
14 that I made a mistake on the chart and mislabeled  
15 it -- there's no real objective use of the numbers  
16 that are yielded by the MESSY-2. There is an  
17 informal kind of listing. The MESSY-2 actually  
18 comes in a long form and a short form. And I don't  
19 know which was used, but even if the short form was  
20 used, which is about 24 items, the only ones he  
21 said that the teachers marked off were -- and you  
22 list four of them, I believe: Helping a friend

1 who's hurt, working well on a team, asking if he  
2 can be of help, asking others how they are doing.

3 And then he lists a somewhat longer list,  
4 about seven items of positive things, positive  
5 social skills.

6 MS. CHEUK: Do you have concerns on how  
7 this was reported?

8 DR. CAMERON: I think the most that you  
9 can get out of this informal list of good and bad  
10 things that appeared on teacher reports is that  
11 he's got some social positives and negatives about  
12 how he stands compared to other kids is not at all  
13 clear because there's really no way to tell.

14 MS. CHEUK: And then you just mentioned a  
15 chart. Can you look at Exhibit 30 -- Exhibit 30.

16 DR. CAMERON: Okay.

17 MS. CHEUK: That's in that book you're  
18 in. But hold your hand --

19 DR. CAMERON: I have got it.

20 MS. CHEUK: Okay. Is there anything  
21 you'd like to share about this exhibit that you  
22 created?

1 DR. CAMERON: Yes. Well, the first thing  
2 is I thought it was the missing display of -- that  
3 this was a missing display of data for the NEPSY  
4 and I mislabeled it. It's actually from the autism  
5 spectrum rating scales, and it is a very long list  
6 of subscales that go into that test, which is like  
7 other autism rating scales based on DSM criteria,  
8 but it was given -- two copies for given for home  
9 ratings to Jeff and Adam, and three teachers,  
10 individually, filled out forms on the autism  
11 spectrum rating scale, which is actually a very  
12 good test, by the way.

13 I believe -- Jack Magliari (ph), who  
14 helped develop it, who was one of co-authors,  
15 actually presented in this room some years ago on  
16 this and wanted the testing developed.

17 The only problem I have with this chart  
18 is that it's TMI, too much information, and it's  
19 pretty hard to see any trends there. I did average  
20 these scores, and that's what's in this chart in  
21 Section 30 where you can see that on the autism  
22 spectrum rating scales, the teacher ratings were

1 down here below clinical significance and all the  
2 home ratings, once again, as when I did the BASC,  
3 were up here in clinically significant range.

4 Now, we not only have kind of a validity  
5 question, but we're not making any distinctions  
6 between language difficulties, stereotype  
7 behaviors, rigid behaviors, sensory sensitivity,  
8 attention, social communication -- everything's  
9 bad. So it's a limit to diagnostic utility.

10 But I think that, as every time we  
11 present side-by-side home and school data, you're  
12 going to see it's really a wide gap.

13 MS. CHEUK: And just to clarify one more  
14 time for the record, this is not the correct title  
15 on --

16 DR. CAMERON: That's not correct, no.

17 MS. CHEUK: It should be the autism  
18 spectrum rating scale; is that --

19 DR. CAMERON: Correct. It does look at  
20 social skills, among other things, on this list  
21 below, but that's not the title. It is the ASRS.

22 MS. CHEUK: Okay. On page 50?



1 DR. CAMERON: Correct.

2 MS. CHEUK: Does Dr. Giroux acknowledge  
3 the differences between what's being reported at  
4 home and what --

5 DR. CAMERON: It acknowledges that, at  
6 many times, in the form of, you know, "we tested  
7 the child and we saw this," nevertheless, by  
8 report, this happens. You know, I think it's a  
9 diplomatic way of preserving the nature of the  
10 paradox without passing judgment on it.

11 MS. CHEUK: Okay. Briefly, could we go  
12 through the next three scales: The SCQL, the SEQ,  
13 and the RBSR? And those are described on page 17.

14 DR. CAMERON: All right. I have got to  
15 get back to the report. What page?

16 MS. CHEUK: Page 17. Exhibit 29.

17 DR. CAMERON: All right. So -- what page  
18 again?

19 MS. CHEUK: It's page 17 of the report.

20 DR. CAMERON: Okay. All right. So  
21 the -- what are you asking?

22 MS. CHEUK: Who provided input? What is

1 the utility of these three scales?

2 DR. CAMERON: All right. Well, the --  
3 you have got the social communication  
4 questionnaire, which is the SCQL, and that is a  
5 noted inventory where Adam was the informant, and  
6 it provides a kind of historical review of  
7 difficulties that REDACTED may have had in  
8 communication, reciprocal social interaction, and  
9 again, restricted repetitive stereotype patterns of  
10 behavior.

11 And then the SEQ is Sensory Experiences  
12 Questionnaire, and the RBSR I think has to do with  
13 repetitive behaviors. That's the RB in it. And,  
14 again, you're looking at typical types of behavior  
15 that a child with autism would have, and so, in all  
16 these cases -- let's see. If we have a numerical  
17 score. Does he have a --

18 MS. CHEUK: Is that the -- he doesn't  
19 have a chart for that.

20 DR. CAMERON: Okay. He doesn't have a  
21 chart.

22 So the bottom line is that, as with every

1 other question that is put to his guardians about  
2 every type of behavior, yes, he's got huge problems  
3 with social communication, huge problems with  
4 unusual sensory experiences and repetitive  
5 behaviors.

6 So these are the only -- they were the  
7 only informants on that.

8 MS. CHEUK: Okay. And looking into  
9 executive functioning specifically, it looks like  
10 Dr. Giroux administered the BDEFSC; right?

11 DR. CAMERON: Right.

12 MS. CHEUK: Didn't any teachers provide  
13 input on those measures?

14 DR. CAMERON: Not that I can see. It  
15 appears to be just gradings by them.

16 MS. CHEUK: And what did those scales  
17 show in regards to [REDACTED]'s executive functioning?

18 DR. CAMERON: Almost everything was  
19 extremely elevated. Clinically significant, scores  
20 in the 90s. I think one score was below 90.

21 MS. CHEUK: Okay. And moving on, did  
22 [REDACTED] complete a self-report in the area of

1 emotional functioning?

2 DR. CAMERON: He did. And that's the  
3 Millon Pre-adolescent Clinical Inventory, which is  
4 an excellent, excellent test, by the way. I have  
5 been pushing to get us to use that. But his -- it  
6 says, "His responses to the questions are thought  
7 to be an accurate portrayal of current functioning.  
8 [REDACTED] reports a desire to be a compliant  
9 individual, but at the same time, [REDACTED] finds it  
10 difficult to control his emotions."

11 Emotionally defensive, finds it difficult  
12 to discuss his behavioral difficulties, a tendency  
13 to view himself in a negative light, and  
14 anticipates negative responses from others, reacts  
15 strongly to his own perceived weaknesses.

16 We don't have any scores here. This  
17 Millon test is supposed to kick out standard scores  
18 and has an at-risk category and a clinically  
19 significant category. We're not seeing it. What  
20 we are getting is a list of things that did come  
21 out of the Millon. Withdraws socially, limits the  
22 risks he takes. Tries to restrain his impulses and

1 conform to the rules of others.

2 Now, I'll give you -- without disagreeing  
3 with that at all, because it probably came from the  
4 printout of the Millon, which is a very good test,  
5 I will say that, when you see that on an adolescent  
6 profile, when you look at it differently from an  
7 adult profile, because, for a child who was once  
8 diagnosed as oppositional to flag his desire to be  
9 compliant, I don't see a problem there.

10 Emotionally defensive, feelings of  
11 inadequacy and insecurity, one reason that I'm here  
12 and I think that we're all here is that not only  
13 has REDACTED been through a lot of things in his early  
14 childhood but no one will --

15 MR. NANNI: I object. Please don't talk  
16 about his childhood.

17 HEARING OFFICER ASCHMANN: There was no  
18 question. You can only object when a question is  
19 made.

20 MR. NANNI: Sorry.

21 HEARING OFFICER ASCHMANN: Please  
22 continue.

1 DR. CAMERON: That I believe he feels  
2 very much under pressure and under a magnifying  
3 glass all of the time and that the well-meaning  
4 attempts to so closely monitor every aspect of his  
5 life -- and we yank him out for testing all the  
6 time and to -- it would be amazing if he didn't  
7 have some feelings of inadequacy and insecurity if  
8 people are saying that he's got every possible in  
9 the DSM-5.

10 So I don't disagree with these things,  
11 but number one, they don't have too much to do with  
12 autism, and number two, they confirm what I have  
13 worried about, which is that REDACTED is starting to  
14 develop some real self-consciousness and feelings  
15 of insecurity and turn inward, you know, his --  
16 some of his difficulty, I think, dealing with  
17 stress is that he is being made by everyone to  
18 focus on himself, and it impedes his social  
19 development.

20 But, anyway, another thing that's listed  
21 and I put on that one is "consistently tries to  
22 restrain his impulses and conform to the rules of

1 others." Well, let me tell you, when you're 12 or  
2 13 years old, that can be a good thing.

3 MS. CHEUK: And then with the -- the  
4 specific measure of depression or anxiety, these  
5 were also completed by **REDACTED** that correct?

6 DR. CAMERON: Yes.

7 MS. CHEUK: And how did those results  
8 come out? Anything significant?

9 DR. CAMERON: Non-significant in  
10 everything except school avoidance. He does have  
11 some apprehension about the whole school situation.

12 MS. CHEUK: Okay. And then what would  
13 you like to say about the projected measures? It  
14 looks like he had administered the Rorschach  
15 Inkblot Test and the "guess why" game. Is there  
16 anything significant that came out of those two  
17 projected measures? And why would those be tested?

18 DR. CAMERON: The main advantage to the  
19 Rorschach is that, of all the tests that you can  
20 give someone, it's the hardest to fake. If you're  
21 trying to present it a certain way or if you're  
22 smart enough to see through questions and give

1 answers, that, you know, will fool people, you can  
2 do that on some tests, but not the Rorschach.

3 So it would be mostly of significance if  
4 it gave radically different information from other  
5 things that were tested, but I would have to say  
6 that it's pretty consistent with everything else.

7 Some of these, again, I think are  
8 interesting if you consider that it's an  
9 adolescent. He tries to take in and account for as  
10 much information as possible, and this style may  
11 lead to a delay in decision-making, as REDACTED may  
12 feel he never has enough information to help him  
13 make a decision. Please give me a teenager like  
14 that. You know, most of them are impulsive and  
15 ready to act on minimal information.

16 And another is a bit (indiscernible),  
17 demonstrates an ability to manage demands placed on  
18 him, but when the demands exceed his capabilities,  
19 he's likely to use ineffective strategies to help  
20 manage his stress. Well, almost by definition, if  
21 someone has exceeded your capabilities, you're  
22 going to use ineffective strategies.



1 I do think that -- a thing that does pop  
2 up that I'm perfectly willing to acknowledge is  
3 that I think that [REDACTED] does have some self-esteem  
4 issues, and at the same time, he feels he's held to  
5 some impossible standards.

6 MS. CHEUK: And at the bottom of that  
7 page, Dr. Cameron, is the impact of symptoms on  
8 functioning.

9 DR. CAMERON: Right.

10 MS. CHEUK: Do you agree with that  
11 discussion on the bottom of page 20?

12 DR. CAMERON: Well, as I recall, this is  
13 one -- let's see. All right. I don't think we  
14 have -- again, a standard score chart for this. So  
15 what we have is kind of a list -- and I don't mean  
16 to demean the idea of, instead of presenting scores  
17 to list things that might be issues because there  
18 is value if someone is -- if he's in a new school  
19 or a new class, if someone wants to look at  
20 particular things that might be areas of difficulty  
21 for [REDACTED], that's fine. Give us a little list.  
22 Doesn't always know what's been assigned for

1 homework. Sometimes has difficulty making his  
2 needs known. That's fine. But it doesn't tell us  
3 whether these are really big clinically significant  
4 issues or not.

5 MS. CHEUK: And with regard to what you  
6 just said, that was all based on information  
7 provided from the caregiver and the guardian, is  
8 that correct, the first paragraph -- or the last  
9 paragraph on the bottom of page 20? These are  
10 difficulties being reported from the home  
11 environment.

12 DR. CAMERON: That appears to be the  
13 case.

14 MS. CHEUK: Okay. Have you reviewed the  
15 summary of Dr. Giroux's report that begins on page  
16 21?

17 DR. CAMERON: Yes, I have.

18 MS. CHEUK: And have you reviewed the  
19 diagnoses that he made on page 24?

20 DR. CAMERON: Yes, I have.

21 MS. CHEUK: Do you -- what is your  
22 opinion of those recommendations?

1 DR. CAMERON: Well, let's start with the  
2 diagnoses. He makes three: Attention deficit  
3 hyperactivity disorder, mild; autism spectrum  
4 disorder; and other specified anxiety disorder.

5 All right. First of all, as a school  
6 psychologist, I don't make diagnoses, and I don't  
7 even contradict diagnoses, but I do use State  
8 Department of Education criteria for determining  
9 whether a label should be put on the child and  
10 whether -- especially designed construction might  
11 be necessary to address that problem or those  
12 problems.

13 Now, attention deficit hyperactivity  
14 disorder combined mild, usually, if someone has  
15 been to a doctor and has gotten that diagnosis, a  
16 psychologist is not going to gainsay it, even if  
17 he's got kind of questionable evidence to support  
18 it. And frankly, in my own evaluation, I found  
19 enough general difficulties with executive  
20 functioning that I wouldn't argue with a mild  
21 attention deficit hyperactivity disorder diagnosis  
22 except that, for our purposes, it doesn't show much

1 academic impact.

2 The second one, autism spectrum disorder,  
3 again, I had the advantage of knowing [REDACTED], his  
4 teachers, and his caregivers, and having to come to  
5 a conclusion about, for our purposes, an autism  
6 label, he would have to be showing symptoms at home  
7 and school. We'll leave it there. And he's not  
8 showing them at school. And he's not showing them  
9 on an individual basis either by direct testing, by  
10 observation, or interview.

11 Anxiety disorder -- and, again, that's  
12 very general. [REDACTED] is not schoolphobe (ph),  
13 which is where I would really draw the line. He  
14 comes to school, he participates, and he doesn't  
15 seem to be, in terms of functioning, impaired by  
16 symptoms of anxiety, with one possible exception  
17 which is he had a history of staying too long in  
18 the bathroom, and that suggests some avoidant  
19 behavior.

20 But in the school of several hundred  
21 students, you're going to have several kids who are  
22 staying out of class when they can and wandering

1 the hallways, and they don't all have anxiety  
2 disorders.

3 So the one thing I would really take an  
4 issue with is autism spectrum disorder because, for  
5 our purposes, there's nothing -- if you absent the  
6 home ratings, there's nothing to support an autism  
7 diagnosis.

8 MS. CHEUK: Dr. Giroux, also at the  
9 bottom of that page, states that, "REDACTED" appears to  
10 meet eligibility criteria for an emotional  
11 disability." Would you agree with that?

12 DR. CAMERON: Well, first of all, I think  
13 he's overstepping his bounds because, you know, we  
14 have our own educational worksheets that are not  
15 even a part of the clinical psychology, and our  
16 criteria include teacher reports, academic records,  
17 and all sorts of things that he's not privy to. So  
18 I would see that as a territorial issue that this  
19 is not his place to be making that call.

20 MS. CHEUK: Looking at Exhibit 47 -- oh,  
21 I'm sorry. Going back to Exhibit 28, we briefly  
22 discussed this as the eligibility documents from

1 July 10th, 2018, meeting for which this IEE was --  
2 the eligibility team met to consider this IEE.

3 DR. CAMERON: Okay.

4 MS. CHEUK: According to No. 1 on that  
5 first page --

6 DR. CAMERON: Right.

7 MS. CHEUK: -- what did the eligibility  
8 determination -- what was the eligibility  
9 determination?

10 DR. CAMERON: Not eligible for autism  
11 spectrum or ED.

12 MS. CHEUK: And did you agree with that  
13 determination at that meeting?

14 DR. CAMERON: I did.

15 MS. CHEUK: Based on what?

16 DR. CAMERON: Based on what I was saying  
17 earlier, that we are not seeing, frankly,  
18 clinical-level symptoms or impact in the school  
19 setting.

20 MS. CHEUK: Do you believe there is any  
21 evidence to support REDACTED being identified with any  
22 other disabilities?

1 DR. CAMERON: Not at this -- well, let me  
2 say this: Disability in the sense of having a  
3 special education label applied to him? No. In  
4 the sense of having an authentic medical diagnosis?  
5 Yes, he has Duane's syndrome and that might  
6 conceivably require some accommodations.

7 I have seen him, after trying to read or  
8 talk or do something for a half an hour or so, one  
9 eye starts to do this (indicating). That's got to  
10 make things rather difficult.

11 And -- yeah, and once more, I don't  
12 necessarily argue with the other two diagnoses that  
13 were on that evaluation except to say that they do  
14 not seem to be having significant educational  
15 impact.

16 MS. CHEUK: Okay. And the eligibility  
17 team thoroughly considered that IEE report at that  
18 July 2018 meeting?

19 DR. CAMERON: Yes.

20 MS. CHEUK: They didn't exclude any  
21 information?

22 DR. CAMERON: No.

1 MS. CHEUK: Flipping to Exhibit 47, these  
2 have already been identifying as the meeting  
3 deliberation documents for part one of that  
4 eligibility on December 14th and part 2 on January  
5 11th.

6 DR. CAMERON: Mm-hmm.

7 MS. CHEUK: Did you attend both parties  
8 of that eligibility?

9 DR. CAMERON: Yes, I did.

10 MS. CHEUK: Did you actively participate  
11 in a discussion at the eligible meeting?

12 DR. CAMERON: Yes, I did.

13 MS. CHEUK: Did Mr. Van Scoyoc and  
14 Mr. Nanni participate in both parts of that  
15 meeting?

16 DR. CAMERON: Yes, that first one in  
17 December.

18 MS. CHEUK: Okay. Did they have -- how  
19 about their attorney? Was their attorney there?

20 DR. CAMERON: Yes.

21 MS. CHEUK: Did you have the  
22 opportunity -- did they have the opportunity to



1 discuss their concerns at the part 1 of that  
2 meeting?

3 DR. CAMERON: Yes, they did.

4 MS. CHEUK: Did they raise any concerns  
5 about your testing at the December 14th, 2018,  
6 meeting?

7 DR. CAMERON: I think the main focus of  
8 that meeting had to do with observations that were  
9 done by two people, and my own findings were not  
10 really bantied about.

11 MS. CHEUK: Okay. We have also heard  
12 testimony that REDACTED attended that meeting.

13 DR. CAMERON: Yes, he did.

14 MS. CHEUK: What were your observations  
15 of him?

16 DR. CAMERON: He was wearing glasses,  
17 which he hadn't had before. He had grown a bit,  
18 and he was a little more mature. And he actually  
19 seemed rather poised and philosophical about the --  
20 and open about the questions that were asked and  
21 answered them very forthrightly.

22 MS. CHEUK: And what criteria did the

1 team consider at part one of that eligibility?

2 DR. CAMERON: Part one. Are you talking  
3 about going through --

4 MS. CHEUK: What criteria worksheets did  
5 the team go through at the December meeting?

6 DR. CAMERON: Oh. Well, emotional  
7 disability and autism.

8 MS. CHEUK: And what did the team  
9 determine regarding REDACTED's eligibility status  
10 under autism and ED?

11 DR. CAMERON: Okay. Under emotional  
12 disability, they did note a tendency to develop  
13 physical symptoms or fears associated with personal  
14 or school problems, but did not find there was an  
15 adverse affect on educational performance and that  
16 he did not need specially designed instruction.

17 For autism, they did not find significant  
18 documentation of an autistic disorder. Looking at  
19 the criteria of social interaction, restricted  
20 repetitive stereotype patterns of behavior,  
21 interest activities, impairments, and  
22 communication, social interaction, really -- again,

1 with teachers providing up-to-date input in his new  
2 setting and looking at the old information, we did  
3 not find significant symptoms.

4 MS. CHEUK: And did you agree with that?

5 DR. CAMERON: Yes, I did.

6 MS. CHEUK: Okay. Did you attend part  
7 two of the eligibility meeting on January 11 --

8 DR. CAMERON: Yes, I did.

9 MS. CHEUK: -- 2019? Did you actively  
10 participate in that discussion?

11 DR. CAMERON: Yes, I did.

12 MS. CHEUK: Were you made aware of the  
13 concerns regarding the scoring of your test at that  
14 meeting?

15 DR. CAMERON: Yes, I -- and it was not  
16 clear to me which tests they were referring to, but  
17 I assume they mean where I average the Asperger  
18 symptoms scale and show the big gap. Had to do  
19 with averaging standard scores.

20 MS. CHEUK: Correct. And did the team  
21 discuss those concerns?

22 DR. CAMERON: Well, I was asked about

1     them, and I said there's -- there are situations  
2     where you wouldn't want to average standard scores,  
3     but in the case of the ASRS, where I average scores  
4     and compared home and school ratings, I was  
5     perfectly within my rights. I didn't have raw  
6     scores to work with, and in the manual to the ASRS,  
7     Naglieri himself presents average standard scores,  
8     comparing home and school ratings, in his own  
9     illustrations. So it's groundless to say that, you  
10    know, across the board, you should not do that.

11           MS. CHEUK: That ASRS wasn't your test.

12           DR. CAMERON: It was the test that I --  
13    no, not my test.

14           MS. CHEUK: Right.

15           DR. CAMERON: But it was the test where I  
16    showed that, even by their own data, school ratings  
17    were not significant.

18           MS. CHEUK: Looking at page 2 of the  
19    eligibility summary, what did the team determine  
20    with regard to **REDACTED**s continued eligibility under  
21    OHI?

22           DR. CAMERON: Not eligible.

1 MS. CHEUK: Do you agree with that  
2 determination?

3 DR. CAMERON: I do.

4 MS. CHEUK: Why?

5 DR. CAMERON: Again, lack of educational  
6 impact and, frankly, people have seen a consistent  
7 improvement in his executive function.

8 MS. CHEUK: Why did the team not  
9 acknowledge the Kellar ADHD diagnosis on the  
10 criteria worksheet?

11 DR. CAMERON: I think it was -- it was  
12 not supported by anything except home ratings, but  
13 also, it appeared to just be carried over as a  
14 medical diagnosis from the past, and very often,  
15 we -- a child might have a medical diagnosis of  
16 ADHD but not show significant symptoms in the  
17 classroom, either because it's a more structured  
18 environment or because he's on medication. And so  
19 we don't always go with an ADHD diagnosis. It's  
20 mainly contradictive.

21 MS. CHEUK: Okay. Dr. Cameron, thank you  
22 for your attention today. Do you have any

1 additional information about [REDACTED] or his  
2 educational needs that you'd like to share with  
3 Mr. Aschmann?

4 DR. CAMERON: I think, especially as he  
5 becomes more mature and capable of charting his own  
6 course, it is going to be problematic for him to  
7 have people using just all of this close attention  
8 and monitoring and sending emails back and forth  
9 over every little thing and writing up programs for  
10 very infrequent behaviors, that the best thing for  
11 [REDACTED] right now, in my opinion, would be to back  
12 off a little bit, let him be a boy, let him make  
13 mistakes, let him even bring home an occasional C.

14 In any type of intervention, consider and  
15 balance the positive and negatives of the  
16 overwhelming attention he's gotten in the last few  
17 years for a child who is bright, personable, did  
18 pretty well academically -- biggest trouble he's  
19 been in lately was probably sticking the lid of an  
20 ice cream carton on someone. Pretty normal boy  
21 stuff. And release him from this concept that he  
22 has all these horrible psychiatric syndromes that

1 he doesn't have.

2 MS. CHEUK: Okay. Would it be possible  
3 to take a small break right now?

4 HEARING OFFICER ASCHMANN: Sure, yes.  
5 Just a short one, though.

6 MS. CHEUK: All right.

7 (A brief recess was taken.)

8 HEARING OFFICER ASCHMANN: It's your  
9 opportunity to cross-exam.

10 CROSS-EXAMINATION

11 MR. VAN SCOYOC: Dr. Cameron, when was  
12 the last time you met with REDACTED?

13 DR. CAMERON: I could give you an exact  
14 date, if I look in my papers. It was May 4th of  
15 2018.

16 MR. VAN SCOYOC: And was that a  
17 counseling session?

18 DR. CAMERON: Yes, it was.

19 MR. VAN SCOYOC: Okay. Did I get it  
20 right that you said that you decided to take parent  
21 input with a grain of salt and defer to the Kellar  
22 Center report?

1 DR. CAMERON: Yes. It was apparent that  
2 I was getting -- the machine kicked out a warning  
3 for invalid reporting and that I should be very  
4 cautious in interpreting those data. And I was  
5 mostly interested in his classroom performance, and  
6 you were getting Kellar information, so I was  
7 perfectly happy to go with what Kellar came up  
8 with.

9 MR. VAN SCOYOC: Is it true that you said  
10 that Dr. Giroux was a fresh face versus your team  
11 who had been seeing him for years?

12 DR. CAMERON: My impression was that he  
13 had not known REDACTED for a long period of time.  
14 Now, it might be mistaken -- and you're welcome to  
15 correct me.

16 MS. CHEUK: Well --

17 (Overlapping conversation.)

18 HEARING OFFICER ASCHMANN: Don't invite  
19 them to --

20 MS. CHEUK: Yeah.

21 DR. CAMERON: Okay.

22 HEARING OFFICER ASCHMANN: Just answer



1 their questions.

2 MR. VAN SCOYOC: So you were not aware  
3 that Dr. Giroux has been seeing REDACTED since second  
4 grade?

5 DR. CAMERON: No.

6 MR. VAN SCOYOC: Are you aware that he is  
7 a regular -- he has been seeing Dr. Giroux on a  
8 regular basis since second grade?

9 DR. CAMERON: No.

10 MR. VAN SCOYOC: You also said that the  
11 Kellar report was, in your opinion, biased because  
12 it was skewed by parent input; is that correct?

13 DR. CAMERON: I didn't use that term. I  
14 think he used parent input for most of the rating  
15 scales, and he got data that's not very useful  
16 because everything is clinically elevated.

17 MR. VAN SCOYOC: How do you reconcile the  
18 fact that ten autism spectrum rating scales ratings  
19 from schoolteachers -- Ms. McCoy, Ms. Massie, and  
20 Mr. Lockovich -- were elevated or very elevated?

21 DR. CAMERON: Only one scale for one  
22 teacher was in clinically significant range. And

1 that -- when you -- there is a statistical problem  
2 that's been recognized for decades with multiple  
3 measurement, which is, if you give dozens and  
4 dozens and dozens of scales to multiple people in  
5 multiple settings with multiple ratings, you're  
6 going to kick out of stray scales just by the onery  
7 nature of statistics, and there are various  
8 correction factors for what's called a problem of  
9 multiple measurement, but the simplest one is to  
10 average ratings.

11 MR. VAN SCOYOC: Okay. On the Kellar  
12 Center report, which is Exhibit 29, on page 16 of  
13 the report, could you read the first two sentences  
14 of the final paragraph, please.

15 DR. CAMERON: Okay. Kellar report.

16 MR. VAN SCOYOC: Exhibit 29, page 16.

17 DR. CAMERON: All right. Hold on. The  
18 last two sentences on page 16?

19 MR. VAN SCOYOC: Yes.

20 DR. CAMERON: Right.

21 MR. VAN SCOYOC: The first two sentences  
22 of the last paragraph.

1 DR. CAMERON: I will give you an  
2 introduction. I will put those in context, which  
3 is there are, on the ASRS, what -- I can probably  
4 tell you pretty exactly -- 71 items. So out of  
5 those 71, Mrs. Massie reports that [REDACTED] frequently  
6 or very frequently doesn't notice social cues.  
7 Mr. Lockovich reports that [REDACTED] frequently does  
8 not start conversations with others, chooses to  
9 play alone, avoids looking at others who speak to  
10 him.

11 MR. VAN SCOYOC: I'm sorry; where are  
12 you?

13 DR. CAMERON: I'm on page 16.

14 MR. VAN SCOYOC: Of the Kellar Center  
15 report? It's Exhibit 29. The final paragraph?

16 DR. CAMERON: I think so. I'll look  
17 again.

18 MR. VAN SCOYOC: It's page 280 in the  
19 book.

20 HEARING OFFICER ASCHMANN: That's what he  
21 was reading from, sir.

22 MS. CHEUK: Yeah.

1 MR. VAN SCOYOC: Is that your book? I  
2 don't know.

3 HEARING OFFICER ASCHMANN: No, it's  
4 the -- school system's Exhibit 29. It's got a big  
5 280 in the lower right-hand corner. It's page 16  
6 at the top. And then last paragraph, he was  
7 reading verbatim what you asked him to.

8 MR. VAN SCOYOC: The beginning of the  
9 last paragraph. That's not what --  
10 (indiscernible).

11 DR. CAMERON: I'm sorry. Something  
12 somebody --

13 MS. CHEUK: Well, he started with  
14 Ms. Massie. Did you want him to read the entire  
15 paragraph?

16 MR. VAN SCOYOC: No, just the first two  
17 sentences.

18 MS. CHEUK: Oh, the first two sentences.

19 HEARING OFFICER ASCHMANN: He said the  
20 last two.

21 MS. CHEUK: He said -- yeah.

22 MR. VAN SCOYOC: I'm sorry. The first

1 two sentences of the last paragraph, where it  
2 starts with, "At school."

3 DR. CAMERON: Sorry.

4 HEARING OFFICER ASCHMANN: That's okay.  
5 Let's get on the same page, as they say.

6 DR. CAMERON: At school. I'm looking.

7 MR. VAN SCOYOC: That's it. Beginning  
8 with "at school."

9 DR. CAMERON: No, I mean --

10 MS. CHEUK: He wants -- 16. He wants you  
11 to read the first two sentences of that paragraph.

12 DR. CAMERON: Okay. All right.  
13 "Variable difficulties are noted in the area of  
14 social communication with Mrs. McCoy reporting that  
15 REDACTED frequently fails to look at others when  
16 interacting with them, has social problems with  
17 children of the same age, doesn't understand why  
18 others don't like him, chooses to play along,  
19 doesn't look at others when interacting, argues and  
20 fights with other children, talks too much about  
21 things others don't care about."

22 So there we have the list out of 71

1 items, the list that Mrs. McCoy checked off. Now,  
2 if you look at the ASRS, it's zero to four. So  
3 even if she checked off "rarely" or "occasionally,"  
4 that would be endorsing it, anything other than a  
5 zero.

6 So I think if you look in -- this is why  
7 it doesn't show up as significant when you look  
8 at -- when you back off and look at overall scores  
9 that, out of 71 items, there might be four or five  
10 that a given teacher would check off. You know,  
11 yes, sometimes that does happen.

12 MR. VAN SCOYOC: So because it's a scale,  
13 how do you determine which difficulties teachers  
14 note that can be dismissed?

15 DR. CAMERON: Well, there are -- you can  
16 get some utility out of looking at individual  
17 items, but you really usually only go to that if  
18 you're seeing more general problems and  
19 particularly compared to kids in general. You  
20 know, kids between 11 and 13 are known to have all  
21 sorts of little funny social issues, and you can't  
22 just grab one and wave it around and make a

1 diagnosis out of it. One reason I did this chart  
2 was to show that, on the whole -- and I'll find it  
3 in the right place -- which number was it? 30?  
4 Yeah, 30.

5 That, on the whole, we're not getting up  
6 into clinically significant range in any of these  
7 areas. Now, it's not fully average and it's not  
8 completely flat, but I don't get too many flat  
9 profiles from kids I test (indiscernible). And I'm  
10 not saying there are no social concerns at all.  
11 There can be various reasons for them, that I am  
12 not seeing clinical significance that would lead me  
13 to microanalyze further.

14 MR. VAN SCOYOC: And you would say that,  
15 despite the fact that it's not just Ms. McCoy but  
16 there are elevated distinctions among all teachers  
17 who were a part of this? Ms. McCoy, Ms. Massie,  
18 and Mr. Lockovich?

19 DR. CAMERON: Yes. You have some  
20 marginal elevations, and you have one clinical  
21 elevation by one teacher in one class under  
22 behavioral rigidity. That's a score of 72. And

1 the other two teachers had 53 and 59, which are  
2 average-range scores.

3 Another thing that -- a benefit of  
4 averaging is there are some kids and some teachers  
5 who don't interact very well together, and what  
6 you're really looking at is a kind of negative  
7 dynamic between that teacher and that student, and  
8 you'll see the other teacher -- other teachers seem  
9 to get along well with a student and not have a  
10 problem in that area.

11 MR. VAN SCOYOC: Okay. Now, on page 24  
12 of the Kellar Center report, as Ms. Cheuk alluded  
13 to and as you touched on, Dr. Giroux gives the  
14 recommendation that REDACTED should have an  
15 eligibility criteria of either emotional disability  
16 or autism spectrum disorder. I believe you had  
17 made a comment that that would be Dr. Giroux  
18 overstepping his grounds to suggest such a  
19 category; is that correct?

20 DR. CAMERON: Well, he can suggest  
21 anything he wants, but to make the -- make the  
22 statement that REDACTED meets state educational



1 criteria when I'm willing to bet he doesn't even  
2 know exactly what those state criteria are, in my  
3 opinion, oversteps his bounds.

4 MR. VAN SCOYOC: Are you aware that the  
5 Kellar Center is a private day school and does  
6 follow state guidelines?

7 DR. CAMERON: Have they held  
8 eligibilities using state criteria?

9 MR. VAN SCOYOC: Are you aware?

10 HEARING OFFICER ASCHMANN: Please,  
11 Doctor, answer his questions.

12 DR. CAMERON: No.

13 MR. VAN SCOYOC: You also mentioned that  
14 the parent had the opportunity to question your  
15 testing at the eligibility meeting held in  
16 December. Are you aware that concerns were raised  
17 in between meetings, the meeting in December and  
18 the meeting in January?

19 DR. CAMERON: Are you talking about the  
20 following January or the previous January?

21 MR. VAN SCOYOC: The December 2018  
22 meeting and the January 2019 meeting, are you aware

1 that concerns were raised in between those  
2 meetings?

3 DR. CAMERON: I'm not privy to whatever  
4 communications were given to the school. Anyone  
5 was free to contact me, but I was not contacted.

6 MR. VAN SCOYOC: And you had recommended  
7 that we should let him be a boy and make mistakes  
8 because the last issue was him throwing an ice  
9 cream tray. Are you aware of the assault charges  
10 that came about from the October -- November 28th,  
11 incident?

12 DR. CAMERON: In my experience at  
13 Bradley, that was the last incident. I am aware of  
14 the fact that there was some assault incident at  
15 Marshall Middle.

16 MR. VAN SCOYOC: On the BASC-3  
17 evaluations, they appear to be completed by  
18 Mr. Lockovich, Ms. Latoy, Ms. Massie, and Jeff  
19 Nanni. Do you know why it is that I was not a  
20 participant?

21 DR. CAMERON: I don't know. I sent home  
22 the evaluation.

1 MR. VAN SCOYOC: So on the January 11th,  
2 2019, eligibility meeting by you averaging the  
3 scores from the evaluations, did that, in effect,  
4 diminish or disregard parental input?

5 DR. CAMERON: It didn't do anything to  
6 parental input because there was no parental input  
7 from our end. There was plenty from the outside  
8 evaluation.

9 MR. VAN SCOYOC: What about the BASC-3  
10 reports that shows parental reportings of  
11 clinically elevated scores?

12 DR. CAMERON: Well, since everything was  
13 clinically elevated, nothing was identified that  
14 would suggest a particular syndrome or a particular  
15 area of difficulty.

16 MR. VAN SCOYOC: If everything was  
17 elevated, though, wouldn't that be indicative of a  
18 medical diagnosis of a mental health problem?

19 DR. CAMERON: It would be -- first of  
20 all, it would be an all-time first for someone to  
21 ring all of the bells on the BASC, but the main  
22 thing it did was get the validity detector on the

1 scoring program to send a warning saying interpret  
2 with great caution, this is a very doubtful  
3 validity.

4 MR. VAN SCOYOC: Part of the  
5 eligibility -- obviously, we talked a lot about how  
6 the autism spectrum testing that was done through  
7 the Kellar Center, you yourself performed the GADS  
8 test, but I'm curious if we were looking to assess  
9 autism spectrum disorder as a whole, why did we do  
10 the GADS test, which only addresses Asperger's  
11 disorder?

12 DR. CAMERON: Because that is the name  
13 that, for a window of time, was used to designate  
14 high-functioning type of autism, and there are  
15 actually different forms for most measures, such as  
16 the CARS and the GARS, for high-functioning autism  
17 versus the more classic mentally impaired  
18 head-banging, self-biting type of autism that they  
19 are now, in the DSM-5, phasing out the use of the  
20 term Asperger's for political reasons.

21 But I think anyone familiar with REDACTED --  
22 I would be very surprised, once again, if

1 Dr. Giroux had any objection to the use of the GADS  
2 itself. It goes straight to high-functioning  
3 autism symptoms.

4 And even the ADOS is divided into four  
5 different modules, and you start with a module  
6 that's appropriate for the category of autism that  
7 you're looking for. He doesn't specify it, but  
8 it's pretty clear that Dr. Giroux used module 3 for  
9 high-functioning autism, which is pretty  
10 interchangeable with the term "Asperger."

11 MR. VAN SCOYOC: Okay. And are GADS or  
12 brief evaluations typically completed with parental  
13 input, or are those done with teacher and/or  
14 student at the home meeting?

15 DR. CAMERON: It depends. I have -- when  
16 I have -- sometimes people will come with just an  
17 outside evaluation, and then I will do a  
18 supplemental test using school input. I don't  
19 always seek to do redundant testing with what's  
20 being done outside, and while I could have gotten  
21 home ratings on the GADS, since I had already got  
22 ceiling ratings on every possible symptom, it would

1 not have been particularly informative to get high  
2 ratings from home on the GADS. It would just be  
3 one more collection of ceiling ratings.

4 MR. VAN SCOYOC: And is that typical for  
5 you to not include direct parents' input on GADS  
6 testing?

7 DR. CAMERON: It's not typical but it's  
8 not unheard of. There are various reasons why I  
9 don't have -- always have parents for autism  
10 ratings. And validity questions would be one.

11 Once again, we had the prospect of you  
12 going out for pretty comprehensive testing  
13 specifically to look at autism symptoms, and all I  
14 wanted to do was provide a cross-check within the  
15 school.

16 MR. VAN SCOYOC: Okay. So, to be clear,  
17 the instructions for the GADS test do not mandate  
18 that --

19 DR. CAMERON: They do not mandate.

20 MR. VAN SCOYOC: -- parent information be  
21 provided.

22 Okay. Thank you, Dr. Cameron.

1 HEARING OFFICER ASCHMANN: You're free to  
2 leave if you need to.

3 MS. NANNI: Oh, I'm sorry. No, I'll wait  
4 a few more minutes.

5 MS. CHEUK: I have no redirect.

6 MR. NANNI: All right. That's it.

7 HEARING OFFICER ASCHMANN: All right.  
8 Well, Doctor, thank you very much.

9 MS. CHEUK: Thank you.

10 We're calling Patricia Apicella.

11 PATRICIA APICELLA,  
12 the witness, after having been duly sworn, was  
13 examined and testified to as follows:

14 DIRECT EXAMINATION

15 MS. CHEUK: Good afternoon, Ms. Apicella.

16 MS. APICELLA: Good afternoon.

17 MS. CHEUK: Could you please identify  
18 yourself for the record.

19 MS. APICELLA: My name is Patricia  
20 Apicella, assistant principal at Bradley Elementary  
21 School?

22 MS. CHEUK: And what is your educational

1 background?

2 MS. APICELLA: I have a BA honors in  
3 primary education. I have a master's in curriculum  
4 administration with an emphasis on (indiscernible),  
5 and I also have a post-masters in administration?

6 MS. CHEUK: And what are your current  
7 responsibilities --

8 MS. APICELLA: I'm assistant --

9 MS. CHEUK: -- as assistant principal?

10 MS. APICELLA: Yep. I say the biggest  
11 portion of my job would be the special education  
12 designation, Mr. Corpening?

13 MS. CHEUK: What does that mean?

14 MS. APICELLA: It means that I oversee  
15 all eligibility initial referrals to child study,  
16 IEPs. I'm the case manager for 504s.

17 MS. CHEUK: So you attend IEPs in  
18 eligibility meetings regularly?

19 MS. APICELLA: All of them that took  
20 place in school, yeah?

21 MS. CHEUK: Okay. And how long in your  
22 current position?



1 MS. APICELLA: Five years. Just almost  
2 (indiscernible)?

3 MS. CHEUK: Okay. Do you know Mr. Van  
4 Scoyoc?

5 MS. APICELLA: I do.

6 MS. CHEUK: And do you know Mr. Nanni?

7 MS. APICELLA: I do.

8 MS. CHEUK: And REDACTED

9 MS. APICELLA: I do.

10 MS. CHEUK: How do you know them?

11 MS. APICELLA: They came to Bradley in  
12 school year 2017-18. He came from Coleman, did  
13 REDACTED. I met Mr. Nanni and REDACTED, I remember, in  
14 the summer before school started, because he was at  
15 summer camp in our school.

16 MS. CHEUK: Okay.

17 MS. APICELLA: So that was the first  
18 interaction I had with the family.

19 MS. CHEUK: And so REDACTED was in fifth  
20 grade when he was at your school?

21 MS. APICELLA: Correct.

22 MS. CHEUK: And he was new to Bradley

1 that year?

2 MS. APICELLA: Yes.

3 MS. CHEUK: What was your understanding  
4 regarding why he transferred for that last year for  
5 middle school?

6 MS. APICELLA: From my understanding, I  
7 understand that he was living in our zone area. He  
8 was at Coleman, then they moved. They was at  
9 Coleman on a waiver. From what I understand, the  
10 class sizes was pretty high the next year, and I  
11 think the principal there sent out --

12 MS. CHEUK: I can't hear you.

13 HEARING OFFICER ASCHMANN: Just wait a  
14 second. It's the court reporter.

15 The truck will go by, but he can't record  
16 what you're saying with that much noise. Thank  
17 you.

18 MS. APICELLA: So I understand that the  
19 waivers were considered but were stopped for that  
20 year because of class sizes. And I also  
21 understand, from the first meeting we had, that  
22 there was some kind of frustration with the family

1 in Coleman that they that had gone through that  
2 they briefly touched on, on our first meeting.

3 MS. CHEUK: Okay. While [REDACTED] was at  
4 Bradley, how often would you see him?

5 MS. APICELLA: I'd see him regularly. I  
6 mean, [REDACTED] -- when they get to fifth grade, they  
7 have responsibilities, leadership positions that  
8 they want to do, raising the flag and whatnot.

9 [REDACTED] wanted to be a safety patrol officer. So I  
10 saw him around the school doing his duties as a  
11 safety patrol officer. He also -- one semester, he  
12 did library book collection with some of the  
13 students in fifth grade around the school. So I'd  
14 see him around. I'd see him in the cafeteria.

15 MS. CHEUK: Okay. Did you ever observe  
16 him in a classroom?

17 MS. APICELLA: I did?

18 MS. CHEUK: And did you see him interact  
19 with other students?

20 MS. APICELLA: In the classroom or --  
21 yeah, I mean, we were short of a recess monitor at  
22 the beginning of the year. It wasn't long into the

1 year, and I actually mentioned in a meeting to the  
2 family that I was surprised how the leadership he  
3 took on because he actually created a game with  
4 robots while I was on the playground, and he has so  
5 many following him, playing that game, and he  
6 developed that game just on the spot there, and all  
7 the kids were just playing with him, right up to  
8 the whistle going for them to line up, which  
9 pleased me because he was new into fifth grade.

10 MS. CHEUK: Right. So on the whole, how  
11 would you describe those interactions other than  
12 the specific one you mentioned?

13 MS. APICELLA: With his peers?

14 MS. CHEUK: Yeah, with his peers.

15 MS. APICELLA: On the whole, I mean,  
16 nothing atypical. I mean, you know, there are  
17 issues in fifth grade. There are issues in every  
18 grade with children. We have had some occurrences  
19 on the playground and the lunchroom with REDACTED, not  
20 many, but we have had some. But not that I would  
21 say that would stand out.

22 MS. CHEUK: Okay. So REDACTED's teachers,

1 did they ever refer him to school administration  
2 for disciplinary reasons?

3 MS. APICELLA: Yes. I think we had -- I  
4 think there were three referrals that we had the  
5 whole year, two minors and a major, or two majors  
6 and a minor, from what I can recollect.

7 MS. CHEUK: We'll look at that exhibit in  
8 a second.

9 MS. APICELLA: Okay.

10 MS. CHEUK: But not excessive? It would  
11 be fair to say it's not excessive?

12 MS. APICELLA: No.

13 MS. CHEUK: So did you ever impose  
14 discipline on REDACTED?

15 MS. APICELLA: There was one incident in  
16 the cafeteria when he was eating a banana and he  
17 was giving the international signal for choking.  
18 And even the adults in there thought he was  
19 genuinely choking, and the children got distressed  
20 about it. And so I walked him up from the  
21 cafeteria -- checked, he was okay. I'm walking him  
22 up. Dr. Cameron was in the building at the time in

1 his office, and he was already going through school  
2 counseling with him, so I went to see if he was  
3 free so we could walk it back with Dr. Cameron's  
4 help of what just happened because it was in  
5 realtime. And we did do that that day.

6 So his consequence that day, I believe,  
7 was a silent lunch up in the office. He had a  
8 packed lunch.

9 MS. CHEUK: Okay. Did you participate in  
10 eligibility or IEP meetings regarding [REDACTED] over  
11 that 2017-2018 school year?

12 MS. APICELLA: I did.

13 MS. CHEUK: If you could look at Exhibit  
14 5. Another witness has already testified that this  
15 document is [REDACTED]'s annual IEP, start date of March  
16 10, 2017. Do you recognize that document?

17 MS. APICELLA: I do.

18 MS. CHEUK: And was this the IEP in place  
19 when [REDACTED] began at Bradley?

20 MS. APICELLA: It was, mm-hmm.

21 MS. CHEUK: If you could please look at  
22 Exhibit 7. Ms. Apicella, another witness, again,

1 has already testified that these documents relate  
2 to an IEP meeting that took place on September 1st,  
3 2017. Did you attend this meeting?

4 MS. APICELLA: I did.

5 MS. CHEUK: And on pages 102-103 are the  
6 prior written notice -- is the prior written  
7 notice. Could you please review No. 2.

8 MS. APICELLA: The explanation?

9 MS. CHEUK: Yes.

10 MS. APICELLA: Do you want me to read  
11 it --

12 MS. CHEUK: Yes, ma'am.

13 MS. APICELLA: Okay. "FCPS proposes this  
14 action because the IEP team have included two new  
15 goals for REDACTED: To master the skill of using a  
16 highlighter and test-taking strategy goal for  
17 assessments. New accommodations were also added to  
18 include repeating directions back to the teacher to  
19 check for understanding. And service time for  
20 in-school counseling was also added to this  
21 addendum, as REDACTED struggles with making and  
22 sustaining friendships throughout the year."

1 MS. CHEUK: Did Mr. Van Scoyoc consent to  
2 the implementation of this addendum?

3 MS. APICELLA: I believe he did, yes.

4 MS. CHEUK: And then Exhibit 8, do you  
5 recognize this document?

6 MS. APICELLA: Another addendum, mm-hmm.

7 MS. CHEUK: And what is the date of this  
8 document?

9 MS. APICELLA: 18th of September. Well,  
10 that's the date on the front, yes.

11 MS. CHEUK: The last two pages of this  
12 exhibit is the prior written notice.

13 MS. APICELLA: Uh-huh.

14 MS. CHEUK: Could you briefly explain  
15 what the school division proposed with this  
16 addendum.

17 MS. APICELLA: We proposed -- this is not  
18 addendum. We proposed to add a calculator in the  
19 classroom. It was during that discussion that the  
20 parent let us know that he would not be taking  
21 SOLs, they would be wavering (indiscernible).

22 MS. CHEUK: Okay.



1 MS. APICELLA: Shall I continue?

2 HEARING OFFICER ASCHMANN: Yes, go ahead.

3 MS. APICELLA: And so we allowed a  
4 calculator. He was doing sixth grade math in fifth  
5 grade, and we allowed a calculator to be used in  
6 the classroom and for all assessments and quizzes  
7 and homework.

8 MS. CHEUK: And did -- go ahead.

9 MS. APICELLA: And there were  
10 accommodations for one-time opportunity to retake a  
11 test if REDACTED scores less than 75 percent, as being  
12 reverted back to the original IEP of an 80 percent,  
13 as the previous addendum said 75 percent, and  
14 Mr. Van Scoyoc changed his mind on that and wanted  
15 it changing back to 80 percent.

16 MS. CHEUK: Was the 75 percent change  
17 something that your special ed -- the IEP team  
18 proposed changing?

19 MS. APICELLA: We proposed it on the  
20 first meeting in August, that we wanted to take  
21 that accommodation and reduce it down from 80  
22 percent.

1 MS. CHEUK: Why did you --

2 MS. APICELLA: Because we -- 70 percent  
3 is considered mastery, and 80 percent -- and as it  
4 turned out, I think it, in my opinion, added  
5 pressure on [REDACTED] because he'd just miss a passing  
6 score of 80 percent, and he'd have to take again,  
7 but as the math teacher would say, his analogy was  
8 it's like he would sit with [REDACTED] and then he was  
9 doing a retake and then he tested every Friday. So  
10 it was like planes backing up on a runway for him.  
11 But, yeah, we believe 70 percent is mastery.  
12 That's what we look for.

13 MS. CHEUK: And did you share that --  
14 were those concerns at an IEP meeting with the  
15 guardian?

16 MS. APICELLA: They were.

17 MS. CHEUK: Did Mr. Van Scoyoc consent to  
18 the implementation of this addendum?

19 MS. APICELLA: He did, yes, for the  
20 calculator and the counseling.

21 MS. CHEUK: So with these two addendums  
22 and the IEP he arrived with at Bradley, were those

1 the operative IEP documents in place for [REDACTED]  
2 during his tri-annual review?

3 MS. APICELLA: Correct.

4 MS. CHEUK: And the eligibility meeting  
5 in January?

6 MS. APICELLA: Yes.

7 MS. CHEUK: Please look at Exhibit 9.  
8 Another witness has testified that these documents  
9 relate to a meeting held to develop a BIP for  
10 [REDACTED]. Do you recognize them?

11 MS. APICELLA: I do.

12 MS. CHEUK: Did you attend this meeting?

13 MS. APICELLA: I did.

14 MS. CHEUK: Do you recall why FCPS  
15 proposed a BIP?

16 MS. APICELLA: I think it was agreed that  
17 his executive functioning, his organization skills,  
18 he needed help there. He needed organization,  
19 especially in math with his materials and resources  
20 and to stay on task and to complete his work. So  
21 that's why we created this working document of the  
22 BIP.

1 MS. CHEUK: Okay. And the second-to-last  
2 page are the behavioral goals for the BIP. If you  
3 wouldn't mind walking us through those, on page  
4 135.

5 MS. APICELLA: This first goal -- do you  
6 want me to read them out?

7 MS. CHEUK: Yes, ma'am.

8 MS. APICELLA: Okay. "REDACTED will follow  
9 class rules for all content-area classes and will  
10 be self-monitoring, along with the teacher. REDACTED  
11 will complete 75 percent class assignments by the  
12 end of the school day." That was his short-term  
13 objective goal, and the long-term one is that he  
14 will follow class rules for all content areas by  
15 self-monitoring and he will complete 100 percent of  
16 his classroom assignments by the end of the school  
17 day.

18 MS. CHEUK: Thank you. And let's move on  
19 to Exhibit 12. What are the documents included  
20 there?

21 MS. APICELLA: So this was a meeting that  
22 we had on the 22nd of January, and I was present at

1 this meeting too. This was to address parents'  
2 request for a pull-out or push-in services, and we  
3 wanted to review the working document of the BIP.

4 MS. CHEUK: And what action did the IEP  
5 team or that FCPS propose to take in response to  
6 the request for push-in and pull-out services?

7 MS. APICELLA: We proposed occupational  
8 therapy screening at this meeting, and we also  
9 refused push-in/pull-out instruction in his IEP.

10 MS. CHEUK: And what information,  
11 according to section 5, did the IEP team use as a  
12 basis for that refusal?

13 MS. APICELLA: We used parent input. We  
14 also used the school input from his classwork. His  
15 progress data were all taken into consideration at  
16 the IEP meeting. He was working effectively and  
17 the BIP was working too.

18 MS. CHEUK: And Exhibit 13, this has  
19 previously been identified as a prior written  
20 notice from the same meeting but for a different  
21 reason. What action did FCPS propose to take here?

22 MS. APICELLA: We proposed to tweak the

1 behavior plan to include transitions throughout the  
2 day.

3 MS. CHEUK: Okay.

4 MS. APICELLA: We proposed this action  
5 because he was making progress with his current  
6 plan, but he also displayed some weaknesses in  
7 transitions, so that's what we were working on.

8 MS. CHEUK: Okay. And then Exhibit 14,  
9 others have testified, again, that these documents  
10 relate to an eligibility team meeting held for  
11 REDACTED in connection with his tri-annual review on  
12 January 31, 2018. Do you recognize them?

13 MS. APICELLA: I do.

14 MS. CHEUK: And, to recap, you have  
15 testified that the IEP and the two addendum were  
16 placed for REDACTED at this time of eligibility. Did  
17 any of those documents require specialized  
18 instruction?

19 MS. APICELLA: No, none of them.

20 MS. CHEUK: Did you attend this  
21 eligibility?

22 MS. APICELLA: I did.

1 MS. CHEUK: Looking at the summary on  
2 page 157, it says, "The team considered an  
3 educational evaluation, psychological evaluation,  
4 observation from science and art, review of the  
5 records, parent input, and teacher  
6 recommendations." Is that accurate, from your  
7 memory?

8 MS. APICELLA: It is. We did more than  
9 one observation just so we could catch a different  
10 environment.

11 MS. CHEUK: And did you, in fact, conduct  
12 an observation?

13 MS. APICELLA: I conducted an observation  
14 in the cafeteria.

15 MS. CHEUK: And is that what appears at  
16 Exhibit 17, the first two pages of that exhibit?

17 MS. APICELLA: Yes. It was during lunch.

18 MS. CHEUK: Okay. And what can you share  
19 from your comments?

20 MS. APICELLA: It took him a while to  
21 get -- you know, to initiate conversation with his  
22 peers at first, but they were just settling down to

1 eating their lunch. I didn't see anything  
2 atypical. It was just run-of-the-mill. I mean, he  
3 started acting a little bit silly with his juice,  
4 but when he was corrected by the monitor who was  
5 walking past, just give him a quiet word, and he  
6 stopped. He corrected his behavior immediately.

7 MS. CHEUK: Do you recall if the team  
8 considered -- other than the information I have  
9 already listed, did the team consider anything  
10 else?

11 MS. APICELLA: At the eligibility  
12 meeting?

13 MS. CHEUK: Mm-hmm.

14 MS. APICELLA: Not that I can remember.

15 MS. CHEUK: Okay. Did the team refuse to  
16 consider any other information at that meeting?

17 MS. APICELLA: No. I'm not sure if it  
18 was at that point -- you'll have to bear with me.  
19 It was over a year -- a year ago.

20 MS. CHEUK: Okay.

21 MS. APICELLA: I believe they  
22 requested -- the family requested an independent



1 evaluation of the decision.

2 MS. CHEUK: All right. And what criteria  
3 did the eligibility team review that day?

4 MS. APICELLA: Other (indiscernible)  
5 impairment.

6 MS. CHEUK: And do you recall -- on page  
7 163 of Exhibit 14 --

8 MS. APICELLA: Sorry; what page number?

9 MS. CHEUK: 163.

10 MS. APICELLA: Oh, 163. Okay.

11 MS. CHEUK: Could you please read aloud  
12 No. 2.

13 MS. APICELLA: "FCPS proposes this action  
14 because **REDACTED** does not meet the criteria as a  
15 student with a disability. FCPS proposes a  
16 possible 504 plan, as **REDACTED** is an additional  
17 diagnosis of attention deficit (indiscernible)  
18 disorder. He will benefit from accommodations to  
19 assist with his deficits in executive functioning."

20 MS. CHEUK: And did you agree with that  
21 determination?

22 MS. APICELLA: I did, yes.

1 MS. CHEUK: Did Mr. Van Scoyoc agree with  
2 that determination?

3 MS. APICELLA: No.

4 MS. CHEUK: Do you recall if Fauquier  
5 County Public Schools provided him a copy of his  
6 procedural safeguards?

7 MS. APICELLA: Yes.

8 MS. CHEUK: You said you agreed with the  
9 eligibility determination. Any specific reason  
10 why?

11 MS. APICELLA: REDACTED is an honor roll  
12 student. I didn't see an education/academic impact  
13 there. He -- I definitely believe he  
14 (indiscernible) that accommodations, he would need  
15 accommodations to be successful in the classroom,  
16 and that's why I think we suggested the 504 as a  
17 team. Right now, at this time, he was on consult  
18 only, so he wasn't getting any direct services in  
19 his classrooms. So I still stand by this decision.

20 MS. CHEUK: Please look at Exhibit 18.  
21 We're going to move to Exhibit 25. I apologize.  
22 What is this report?

1 MS. APICELLA: This is our Swiss (ph)  
2 printout of the reports for the year. This one's  
3 for REDACTED showing one major and two minor  
4 referrals.

5 MS. CHEUK: And do you -- when was the  
6 last referral?

7 MS. APICELLA: February, I believe.

8 MS. CHEUK: Do you notice anything with  
9 regard to where these referrals took place?

10 MS. APICELLA: Yes. These referrals took  
11 place in unstructured time, environments such as --  
12 well, one was cafeteria and one was the playground.

13 MS. CHEUK: Okay. So anything for which  
14 his behavior intervention plan would have applied?

15 MS. APICELLA: No.

16 MS. CHEUK: And in comparison to other  
17 fifth grade students, is this a high, low, average  
18 number of referrals during a school year?

19 MS. APICELLA: This is nothing that would  
20 stand out as a red flag to me. I mean, I will  
21 share that with REDACTED, when he recounted incidents,  
22 they were not as -- his perception was not reality

1 when we looked at videos or we investigated it.  
2 And [REDACTED], by nature, I would not view as an  
3 aggressive child. The thing with the slide, he was  
4 just trying to get down the slide, and the boy in  
5 front was not going down fast enough. So as he  
6 bent his knees to go down, he kned him in the  
7 back. I don't think he was being malicious.

8 MS. CHEUK: Ms. Apicella, you testified  
9 today that you attended several or eligibility and  
10 several IEP meetings with Mr. Nanni and Mr. Van  
11 Scoyoc last school year about [REDACTED]. Do you  
12 continue to agree that [REDACTED] is not eligible for  
13 specific education services?

14 MS. APICELLA: I do.

15 MS. CHEUK: And would you share again,  
16 one more time, why that is?

17 MS. APICELLA: [REDACTED]'s honor roll  
18 student. He does not require services within the  
19 classroom, and I don't believe he needs a  
20 specially-designed instruction to access the school  
21 curriculum.

22 MS. CHEUK: Do you have any other

1 information about [REDACTED] or his educational needs  
2 that you wish to share with the hearing officer  
3 today?

4 MS. APICELLA: No, but I'd just reinforce  
5 that Section 504 is very important with the  
6 accommodation piece for [REDACTED].

7 MS. CHEUK: Okay. Thank you. Please  
8 answer Mr. Van Scoyoc's questions.

9 MS. APICELLA: Sure.

10 HEARING OFFICER ASCHMANN: It's your  
11 chance to cross-examine, sir.

12 CROSS-EXAMINATION

13 MR. VAN SCOYOC: Ms. Apicella, do all  
14 teachers at Bradley receive training to learn how  
15 to identify disabilities -- children with  
16 disabilities?

17 MS. APICELLA: Could you be a bit more --  
18 what do you mean, "identify"?

19 MR. VAN SCOYOC: Do they receive -- do  
20 teachers receive training to know how to identify  
21 students that may have a disability?

22 MS. APICELLA: We have a process at

1 Bradley, as I'm sure all the schools in the  
2 division do. It's called Responsible Intervention.  
3 The differentiation for the children is they're not  
4 growing academically and not processing as  
5 expected, we talk about that in your professional  
6 learning communities every week. We look at the  
7 data to see. We have BIP team, the overall  
8 assistive team, to look at the IDEAs if we have got  
9 a child who has got significant behavioral  
10 referrals and the behaviors are not being  
11 corrected, we can implement a behavior intervention  
12 plan with any child, the general education child,  
13 that don't have to be special education identified.

14 And so, yes, the teachers, they notice  
15 things like that and we talk them up in  
16 (indiscernible).

17 MR. VAN SCOYOC: You had said that  
18 [REDACTED]'s perception is sometimes not reality. Could  
19 you elaborate on that, please.

20 MS. APICELLA: There was an incident in  
21 the gym during PE; it was not recess. It was PE.  
22 And they were playing a game. [REDACTED], I think, came

1 home and told you and Mr. Nanni that someone would  
2 kick him in the stomach. I mean, that's a really  
3 serious accusation, and it was real to [REDACTED]. He  
4 came up into the front office. Mrs. Banks, the  
5 principal, saw him.

6 When we looked at the video and when we  
7 talked to the boy in question, they were playing a  
8 game. There's no sound with that video. We could  
9 see that they were engaged in this game that they  
10 were playing in the gym, and all of a sudden, [REDACTED]  
11 just laid down on the floor, just laid down. And  
12 you could see the boy go up to him, and he was  
13 smiling, and he tapped him a little bit like I'm  
14 doing this.

15 After talking to that other child, he was  
16 saying, Well, we were having a good time and [REDACTED]  
17 just stopped. And I was saying, Come on, get up,  
18 [REDACTED]. We're having fun.

19 That turned into his perception that,  
20 when he spoke to Mrs. Banks and I that he was being  
21 kicked in the stomach by this child, which clearly  
22 did not happen on the video.

1           And there was an incident at recess.  
2           They were playing King of the Hill. I think you  
3           remember that one. And he was adamant of a certain  
4           child dragged him down those back steps of that  
5           equipment, and that boy was seen on the video  
6           wasn't even on the equipment. He stood up besides  
7           REDACTED -- and REDACTED looked at me one day and said,  
8           Well, I thought it happened.

9           MR. VAN SCOYOC: So there's a pretty  
10          common theme while he was a student at Bradley?

11          MS. APICELLA: No. That's the only two  
12          incidents that I --

13          MR. VAN SCOYOC: Those are the only two?

14          MS. APICELLA: Yeah.

15          MR. VAN SCOYOC: Okay. Could you please,  
16          in the right binder, volume 1, open to Exhibit 5.  
17          This is the student classroom observation report  
18          from Angie Gum. Are you familiar with this  
19          document?

20          MS. APICELLA: I think I have seen it. I  
21          have not seen it for a long time, but I know  
22          Ms. Gum did do some observations. Ms. Banks did



1 one and Mr. Nanni did one too. But, yes, I  
2 remember she did go in the classroom?

3 MR. VAN SCOYOC: Okay. On page 2, could  
4 you please read which line items Ms. Gum rated  
5 REDACTED as poor?

6 MS. APICELLA: "Is attentive. Follows  
7 oral directions. Begins work promptly. Completes  
8 work on time. Contributes meaningful class  
9 discussions and completes written assignments  
10 satisfactorily."

11 MR. VAN SCOYOC: Thank you. And it goes  
12 on to say that "Is additional observation  
13 recommended?" "Yes, both in math class again as  
14 well as during another content course for  
15 comparison."

16 Do you know if another option was  
17 completed by Ms. Gum in either math class or  
18 another course?

19 MS. APICELLA: I believe she did more  
20 than one. I couldn't -- I can't say. She may have  
21 done -- I know Mrs. Banks did one and Mr. Nanni did  
22 one simultaneously together. I did one in the math