

1 class. I did one in the cafeteria. And then, of
2 course, there was one in science and art that was
3 completed.

4 And I think it's poignant to not hear
5 that this day of this observation was September
6 2017, which was at the beginning of the school
7 year. And this is really our starting point with
8 REDACTED. I think that the behavior intervention plan
9 was working on these things that Ms. Gum
10 identified, as we progressed through the year.

11 MR. VAN SCOYOC: Okay. Thank you,
12 Ms. Apicella. Those are all the questions I have.

13 MS. APICELLA: Okay. Thank you.

14 MS. CHEUK: I have no redirect.

15 HEARING OFFICER ASCHMANN: Thank you very
16 much.

17 MS. APICELLA: Thank you.

18 HEARING OFFICER ASCHMANN: You're free to
19 go.

20 MS. APICELLA: Thank you.

21 MS. CHEUK: It was nice meeting you.

22 (A brief recess was taken.)

1 ANEY MASSIE,
2 the witness, after having been duly sworn, was
3 examined and testified to as follows:

4 HEARING OFFICER ASCHMANN: All right.
5 You may inquire.

6 MS. CHEUK: Hi, Ms. Massie.

7 MS. MASSIE: Hi.

8 MS. CHEUK: Could you please identify
9 yourself for the record.

10 MS. MASSIE: My name is Aney Massie.

11 MS. CHEUK: And what is your position
12 at --

13 MS. MASSIE: I teach gifted and talented,
14 grades 3 through 5 at C.M. Bradley Elementary.

15 MS. CHEUK: Thank you. What is your
16 educational background?

17 MS. MASSIE: I have a bachelor's in
18 elementary education from Virginia Tech and a
19 master's in curriculum and instruction from
20 Virginia Tech. And I worked with professors at the
21 University of Virginia to get my gifted
22 certification.

1 MS. CHEUK: And what is your license in?

2 MS. MASSIE: I have an NK-4 for 8

3 [verbatim] and gifted endorsements.

4 MS. CHEUK: And what are -- what is your
5 professional background prior to being gifted and
6 talented?

7 MS. MASSIE: I actually started working
8 with gifted and talented children in a regular
9 classroom job. I taught for seven years in Madison
10 County, teaching third grade, and I was in school
11 for one class of each grade. So I always had the
12 gifted cluster.

13 And then I went to a private school for
14 three years where I was a teaching administrator,
15 and I decided administration wasn't for me. I went
16 to Brumfield Elementary. I taught first grade one
17 year. And then for one year -- well, I was offered
18 three years before I went to Brumfield; I just
19 didn't work -- I didn't have that luxury. And then
20 I had one year off after Brumfield while I had back
21 surgery. And then I came to C.M. Bradley 13 years
22 ago, and I have been there ever since.

1 MS. CHEUK: Do you know Mr. Van Scoyoc?

2 MS. MASSIE: Yes.

3 MS. CHEUK: Do you know Mr. Nanni?

4 MS. MASSIE: Yes.

5 MS. CHEUK: And [REDACTED]?

6 MS. MASSIE: Yes.

7 MS. CHEUK: How do you know them?

8 MS. MASSIE: [REDACTED] was in my class. He
9 was in my gifted language arts class, and I also
10 worked with [REDACTED] to help develop his math skills
11 during our intervention and enrichment time once a
12 week.

13 MS. CHEUK: Okay.

14 MS. MASSIE: And I worked with him after
15 school, especially when the department paid me to
16 tutor in the math for six weeks, I think. Six or
17 eight weeks after school in September and October
18 of last year, 2017.

19 MS. CHEUK: Okay. So the beginning of
20 the school year, was that included in his IEP or
21 was that separate?

22 MS. MASSIE: That was separate. I

1 believe -- my understanding was that we were trying
2 to see if that made any difference for him.

3 MS. CHEUK: And last year, REDACTED was new
4 to Bradley; is that right?

5 MS. MASSIE: Yes. He had been at Coleman
6 Elementary before he came to us.

7 MS. CHEUK: And how often did you see
8 him?

9 MS. MASSIE: Every day for 90 minutes for
10 language arts, and then during IE, a half an hour
11 (indiscernible) Thursdays.

12 MS. CHEUK: And how would you describe
13 his interactions with other students?

14 MS. MASSIE: At the beginning of the
15 year, I felt like REDACTED was trying to make friends,
16 and he was a little bit awkward about that. He
17 would -- if a child would tell a story, he would
18 say, "Oh, yeah, that happened to me too" to try to
19 find a way to have something in common with kids.

20 As the year wore on, he met a young lady
21 who had an equal interest in -- I'm not really sure
22 of the game, but a computer game or a program.

1 They talked about it all the time, and they chose
2 to be in groups together when we did group work,
3 and I felt like, by the end of the year, he had
4 made a friend in my class.

5 MS. CHEUK: And how about his
6 interactions with adults?

7 MS. MASSIE: I always found that REDACTED
8 talked to me very freely, and I always found him
9 charming to talk to. You know, if it was just
10 one-on-one, he would tell me stories about, you
11 know, his family or playing the piano or whatever.
12 You know, he talked to me in a normal way for a
13 gifted kid.

14 MS. CHEUK: How would you describe REDACTED
15 generally?

16 MS. MASSIE: I think REDACTED is a nice
17 young man, and I think he really wants to have
18 friends. I think he's really, really very bright
19 in language arts, and he suffers from some test
20 anxiety, but he's a good kid, and I always liked
21 him.

22 MS. CHEUK: Did he seek connection with

1 others, in your opinion?

2 MS. MASSIE: I think so. And I think,
3 when he found legitimate things in common with
4 them, he related (indiscernible) on that and loved
5 to talk to kids about the computer games that they
6 liked to play and things like that.

7 MS. CHEUK: And what were --

8 MS. MASSIE: I think that's also why he,
9 you know, tried awkwardly to make friends in the
10 beginning. I think he always wanted to find
11 connections.

12 MS. CHEUK: And what were his academic
13 strengths when you worked with him?

14 MS. MASSIE: Well, I only taught him in
15 grade attentive language arts, and that is
16 certainly a strength of his. He was a straight A
17 student. He's got excellent reading comprehension.
18 He's a good reader and a good writer.

19 MS. CHEUK: And what were his academic
20 weaknesses? Did you see any weaknesses?

21 MS. MASSIE: Well, he has a little bit of
22 anxiety with test-taking, and so sometimes I felt

1 like he needed to refocus before he could do a good
2 job on a test, but he didn't really have any
3 weaknesses in language arts. He was always able to
4 make As.

5 MS. CHEUK: Did he display any behavioral
6 problems in your class?

7 MS. RICHARDSON: We had one incident
8 earlier in the year where a child had left her
9 snack on her desk and gone to the restroom, and
10 when she came back, her snack was missing. And
11 somebody said, "Whose chips are these?" and REDACTED
12 said, "They're mine; I've been eating them."

13 As soon as Mr. Nanni came to pick up
14 REDACTED from school that day, I talked to him about
15 this, and he said to REDACTED, "Now, do I ever give
16 you those chips?" And REDACTED said, "No." So he
17 admitted that he had wanted the chips and so he
18 took them.

19 And the next day, the family sent chips
20 for the whole class. And nothing like that ever
21 happened again.

22 MS. CHEUK: Okay. And that was the

1 beginning of the school year?

2 MS. MASSIE: That was very early in the
3 school year. I don't remember what month, but it
4 was in the fall.

5 MS. CHEUK: Okay. Did REDACTED have
6 difficulties with group work in your class?

7 MS. MASSIE: Not really, compared to any
8 other gifted child. In a gifted classroom, we have
9 a classroom full of chiefs, and so lots of them
10 have very strong personalities and want to be in
11 charge. I didn't feel like REDACTED was
12 exceptionally -- had any exceptional difficulty
13 with group work compared to other people because
14 it's difficult for a lot of kids in my classroom.

15 MS. CHEUK: Okay. Would you say you saw
16 a change in REDACTED over the course of the year? Did
17 he grow?

18 MS. MASSIE: I think so. I think he
19 adjusted to the school and got along better with
20 the kids as the year went on. I mean, he was brand
21 new. He had never been there before that first --
22 you know, last year. I felt like, over the course

1 of the year, he had a better and better year. A
2 the lot of the issues that we were concerned about
3 early on seemed to kind of fade away as the year
4 went on.

5 MS. CHEUK: Okay. Did Mr. Van Scoyoc or
6 Mr. Nanni ever raise any issues directly with you
7 regarding [REDACTED]'s educational needs?

8 MS. MASSIE: Occasionally. I got a
9 series of emails. Mr. Van Scoyoc -- I went,
10 actually, back and reviewed these emails before
11 today. I had maybe a dozen or a few more from
12 Mr. Van Scoyoc and maybe 50 or so from Mr. Nanni,
13 and they were usually, well, he's prepared for this
14 test or we have studied this or thank you for
15 letting us know that. It was usually just
16 business, record-keeping kind of things.

17 MS. CHEUK: Could you look at Exhibit 14.
18 Yes. Okay. Others have testified that these are
19 documents related to the January 31st, 2018,
20 eligibility meeting. Did you attend that meeting?

21 MS. MASSIE: I believe I attended all of
22 [REDACTED]'s eligibility meetings. I would have to find

1 my signature to say for sure. Yep, there I was.

2 MS. CHEUK: Okay. Exhibit 16 in
3 particular was discussed at that meeting, and this
4 is the psychological evaluation prepared by
5 Dr. Cameron.

6 MS. MASSIE: Okay.

7 MS. CHEUK: And it looks like, on page 5
8 of that evaluation, you were one of the raters for
9 the BASC-3 --

10 MS. MASSIE: Okay.

11 MS. CHEUK: -- which Dr. Cameron has
12 testified is a measure of behavioral, social, and
13 emotional factors. Did you have -- did
14 Dr. Cameron's results on that page accurately
15 reflect your individual ratings that you submitted
16 to him?

17 MS. MASSIE: Yes, I believe so.

18 MS. CHEUK: Would you have any reason to
19 believe he altered them or made a mistake in
20 documenting your ratings?

21 MS. MASSIE: No, not at all.

22 MS. CHEUK: Do you recall the discussion

1 at the eligibility meeting that day?

2 MS. MASSIE: Not specifically. I can
3 look at -- I can look at what was said.

4 MS. CHEUK: Okay.

5 MS. MASSIE: (Indiscernible) over any
6 specific eligibility, I can't claim that I can do
7 that.

8 MS. CHEUK: Looking at the eligibility
9 group summary on -- what page is that? It is the
10 third page of Exhibit 14, so three pages in. Have
11 you reviewed this document before?

12 MS. MASSIE: I reviewed it two weeks ago
13 when you showed it to me.

14 MS. CHEUK: Okay. Do you recall that the
15 team considered the OHI criteria?

16 MS. MASSIE: I do.

17 MS. CHEUK: Do you recall what the team's
18 decision was in that regard?

19 MS. MASSIE: I don't. I know, by the end
20 of the year, we said that he did not qualify for an
21 IEP.

22 MS. CHEUK: The last --

1 MS. MASSIE: This is as of January. Is
2 this January? Am I looking at the right page?
3 6/28/20-- or, no, that's not it. That's the --
4 that's his -- 1/31/2018?

5 MS. CHEUK: Yes.

6 MS. MASSIE: And so our decision was he
7 does not meet the criteria to continue to be
8 eligible.

9 MS. CHEUK: That's correct. Yes.

10 MS. MASSIE: Yes, I signed -- I'm sure I
11 agreed with that.

12 MS. CHEUK: Okay. Did you provide input
13 at that meeting?

14 MS. MASSIE: I'm sure I did, yes. Every
15 eligibility, we went around the table and asked
16 that's what we would have to have.

17 MS. CHEUK: Would you agree that you
18 included incorporated input from the parents at
19 that meeting or that guardian and the caregiver?

20 MS. MASSIE: He was there, so I'm sure we
21 listened to them around the table, the same as the
22 rest of us.

1 MS. CHEUK: Okay. What is your opinion?
2 Do you think [REDACTED] is eligible under OHI criteria
3 and requires specialized instruction?

4 MS. MASSIE: No.

5 MS. CHEUK: Why not?

6 MS. MASSIE: Because [REDACTED] is successful
7 not only in regular classes but in advanced
8 classes, he does not demonstrate any need for
9 special education. Special education is for kids
10 who are not able to be successful in the regular
11 curriculum. Not only is [REDACTED] successful in the
12 regular curriculum, he's successful in advanced
13 classes for the gifted. I can't imagine that he
14 needs any special assistance.

15 At C.M. Bradley, his special ed services
16 were consult only with the special ed teacher,
17 which meant that I met with her every week for 20
18 minutes, and so did all the other teachers, but she
19 did not provide instructional services to [REDACTED]
20 [REDACTED] was in a regular classroom and an honor roll
21 student.

22 MS. CHEUK: (Indiscernible)?

1 MS. MASSIE: I do.

2 MS. CHEUK: (Indiscernible) for him?

3 MS. MASSIE: I do.

4 MS. CHEUK: Please look at Exhibit 26.

5 The last page of the exhibit, page 250, could you
6 tell, for the record, what grade did [REDACTED] receive
7 in your classroom?

8 MS. MASSIE: [REDACTED] received straight As
9 in both my English and reading classes, which were
10 in my 90-minute language arts class.

11 MS. CHEUK: And you continue to agree
12 that [REDACTED] is not eligible?

13 MS. MASSIE: Yes.

14 MS. CHEUK: Do you have any other
15 information to share with Mr. Aschmann that I
16 haven't asked you about?

17 MS. MASSIE: I think, in [REDACTED]'s case, he
18 is -- he does suffer from some anxiety.

19 (Indiscernible) some things is a good thing. I
20 don't think you need an IEP to accomplish that.

21 I also think, because [REDACTED] is
22 successful, continuing to provide him scaffolding

1 and supports will reduce his ability to become
2 independent. I think, if a child is doing well,
3 there would be no reason to try to give him further
4 crutches and supports. I would like to see REDACTED
5 be weaned away from these crutches and supports
6 because I think that, ultimately, he will be able
7 to succeed on his own.

8 MS. CHEUK: Thank you. Please answer
9 Mr. Van Scoyoc's questions.

10 HEARING OFFICER ASCHMANN: Okay. Now,
11 cross-examine, sir.

12 CROSS-EXAMINATION

13 MR. VAN SCOYOC: Did I hear you correctly
14 when you said that REDACTED was trying to make friends
15 and it was awkward at the beginning of the year,
16 but by the end of the year, he made one friend?

17 MS. MASSIE: In my classroom, yeah. I
18 mean, it was a class of 17, I think. I felt like
19 he had a friend by the end of the year, and he got
20 along well with others.

21 MR. VAN SCOYOC: So he developed one
22 close friendship?

1 MS. MASSIE: In my opinion. I felt like
2 at least he and this young lady were pretty tight.

3 MR. VAN SCOYOC: Okay. In the binder in
4 front of you, if you could please go to Exhibit 34,
5 and then page 12 of this document, it's page 333
6 total.

7 MS. MASSIE: Thanks. That helps. 333.

8 MS. CHEUK: Is this your exhibit binder?
9 I'm sorry.

10 MR. VAN SCOYOC: No. I'm sorry. I'm
11 using your exhibit binder.

12 MS. CHEUK: Which exhibit?

13 MR. VAN SCOYOC: Exhibit 34.

14 MS. CHEUK: 34. Okay.

15 MS. MASSIE: It's individualized
16 educational program measurable answer goals?

17 MR. VAN SCOYOC: Yes.

18 MS. MASSIE: I'm looking at it.

19 MR. VAN SCOYOC: Yes. So this IEP
20 meeting, do you remember attending this IEP meeting
21 at Marshall Middle School on --

22 MS. MASSIE: I do remember Marshall's IEP

1 meeting, yes, sir.

2 MR. VAN SCOYOC: Do you remember the part
3 of the meeting when we got to Goal No. 5, the
4 social goals, any commentary you said?

5 MS. MASSIE: I can't remember what I
6 would have said in August.

7 MR. VAN SCOYOC: You don't remember
8 saying that social --

9 MS. MASSIE: I don't remember --

10 MR. VAN SCOYOC: -- (indiscernible) the
11 most important part of a meeting?

12 MS. MASSIE: Do I believe I said it?
13 Yes. Do I remember saying it? No. It was August.
14 I'm sorry.

15 MR. VAN SCOYOC: No, I understand.

16 So you do believe that social goals would
17 be the most important of the goals that we added?

18 MS. MASSIE: I feel like the goals of
19 social interaction are probably more necessary for
20 REDACTED, but I'm not sure that I think that
21 necessarily goals are necessary. I don't think he
22 has academic needs. I do think, like this gifted

1 children, [REDACTED]'s quirky and has friendship issues
2 and that sort of thing. Like we suggested
3 role-playing would be good for him and for a lot of
4 the students I teach.

5 Did I answer your question, Adam?

6 MR. VAN SCOYOC: Yes.

7 MS. MASSIE: Okay.

8 MR. VAN SCOYOC: So you would agree that
9 social goals are very important for [REDACTED]?

10 MS. MASSIE: I would. I would think
11 that -- maybe not goals but, like, I would like to
12 see him improve his socialization skills, and I do
13 think that that is important for him.

14 MR. VAN SCOYOC: Okay.

15 MS. MASSIE: I mean, when you say the
16 word "goal," that's an IEP thing, and I don't know
17 that that's necessarily where it needs to be, but
18 through counsel or other services, there are lots
19 of things we can do to help kids build social
20 interaction skills.

21 MR. VAN SCOYOC: And if you could now
22 switch to the other binder, the white binder,

1 volume one, Exhibit 12. I think you --

2 MS. MASSIE: Oh, no, that's -- I went too
3 far, you're right, because this says occupational
4 therapy. Oh, 12 has a -- okay.

5 MR. VAN SCOYOC: The email instruction,
6 been a little over a year so you might not remember
7 this one off the top of my head, but does this
8 email look familiar?

9 MS. MASSIE: Well, it's written by me.
10 May I read it so that I can tell you how familiar I
11 am?

12 MR. VAN SCOYOC: If you'd like, for all
13 of you, if you could read it out loud, that would
14 be perfect.

15 MS. MASSIE: Okay. "Dear Jeff and Adam:
16 You may remember that last fall I was asked by
17 administrators to work with [REDACTED] in math
18 (indiscernible) IEE (indiscernible). I started
19 doing this even before we had our after-school
20 tutoring sessions Mr. Lockovich lets me know what
21 [REDACTED] is working on each weekend. I use the time
22 to show [REDACTED] some strategies, designed to help him

1 prepare for his math tests. I usually try to come
2 up with strategies that you find in different
3 modalities of learning. I taught him
4 multiplication songs and rhymes to remember his
5 math content. You may remember when I sent home
6 the poster about quadrilaterals" -- oh, I remember
7 why I wrote you this email, because you seemed to
8 not remember, in the email that came before this,
9 that I was doing this every Thursday.

10 MR. VAN SCOYOC: Right.

11 MS. MASSIE: And I got an email from you
12 saying if I was working extra with REDACTED, that that
13 needed to be documented, and that was why I wrote
14 this.

15 MR. VAN SCOYOC: Exactly.

16 MS. MASSIE: "You may remember when I
17 sent home those two (indiscernible), and I imagine
18 you have (indiscernible). Today I showed him how
19 to make (indiscernible) so he can see in 3D how
20 cylinder unfolds and (indiscernible) in order to
21 calculate surface area. Sometimes we use
22 (indiscernible) all year. (Indiscernible) every

1 Thursday from 10:35 to 11:05, and this one --"

2 HEARING OFFICER ASCHMANN: Ma'am, you
3 need to keep your voice up so that --

4 MS. MASSIE: Oh, I'm sorry. Do I need to
5 repeat anything, sir?

6 HEARING OFFICER ASCHMANN: He couldn't
7 hear what you were reading, but you can just refer
8 to the documents in the evidence folder.

9 MS. MASSIE: Okay.

10 MR. VAN SCOYOC: I think that's -- thank
11 you, Ms. Massie. You have read enough.

12 So for me talking about using the
13 strategies with in my modalities of learning, would
14 you agree that a multisensory (indiscernible)
15 approach for [REDACTED] is in his best interest and how
16 he responds best?

17 MS. MASSIE: I do think that [REDACTED], using
18 mnemonic devices and graphic organizers and things
19 helps him master abstract content.

20 MR. VAN SCOYOC: But specifically
21 multi-sensory teaching.

22 MS. MASSIE: I guess that's multisensory.

1 Songs, visuals, yes.

2 MR. VAN SCOYOC: Okay.

3 MS. MASSIE: I feel like that helps him.

4 I also think that helps lots of kids.

5 MR. VAN SCOYOC: And then you had said
6 that you believed [REDACTED] is successful academically
7 because he has good grades, even in honors classes,
8 and thereafter, an IEP may not be appropriate.

9 MS. MASSIE: Yes.

10 MR. VAN SCOYOC: In your experience, do
11 other children with IEPs have good grades or do
12 they always have bad grades?

13 MS. MASSIE: They don't always have bad
14 grades, but I have had a number of students with
15 IEPs in my (indiscernible) classes, and most
16 struggle more than one.

17 MR. VAN SCOYOC: Would you describe [REDACTED]
18 as twice exceptional?

19 MS. MASSIE: I would only describe him as
20 twice exceptional if he has an official
21 identification. When we got him, like I know he
22 has -- you're going to have to help me. I don't

1 remember the name of the -- he has an eye --

2 MR. VAN SCOYOC: Duane's.

3 MS. MASSIE: Right. Duane's syndrome,
4 and so I would say that that is a medical situation
5 that causes him to need some accommodations, like
6 where he sits in relation to the board and things
7 that cause eye strain, things like that.

8 When we got him -- am I remembering
9 correctly that he had an ADHD diagnosis?

10 MR. VAN SCOYOC: Yes.

11 MS. MASSIE: So that is sometimes
12 considered a second exceptionality.

13 MR. VAN SCOYOC: Okay.

14 MS. MASSIE: As I am not a school
15 psychologist or a doctor, like, I can only go by
16 what diagnoses we are told there are.

17 MR. VAN SCOYOC: Okay. Thank you,
18 Ms. Massie. Those are all my questions.

19 MS. MASSIE: Thank you.

20 MS. CHEUK: I just have one redirect.

21 HEARING OFFICER ASCHMANN: Yes, ma'am.

22 REDIRECT EXAMINATION

1 MS. CHEUK: Mr. Van Scoyoc asked you if
2 it helps REDACTED to learn, in a multisensory way. I
3 don't think he requires instruction that way?

4 MS. MASSIE: I don't think so. I mean,
5 he's also demonstrated the ability to do rote
6 memorization. For example, we do Latin stems and
7 roots in my class, and he was able to master that
8 without me doing anything exceptional.

9 But at the time that I was doing this for
10 him, I was trying to build his math skills because
11 he was in a sixth grade math class, as a
12 fifth-grader, and he didn't have quick access to
13 his multiplication facts and things like that, so I
14 taught him songs, like I used to do when I taught
15 third grade multiplication, because those are a
16 good way to remember.

17 So do I think it's necessary? No. Do I
18 think he learns better that way? Yes. Do I think
19 everybody learns better that way? Yes, almost
20 everybody. As a math teacher, when I am teaching
21 math, I do that for my entire class.

22 MS. CHEUK: Thank you.

1 MS. MASSIE: Sure.

2 HEARING OFFICER ASCHMANN: Thank you very
3 much. You're free to go.

4 (A brief recess was taken.)

5 KYLIE HENSON,
6 the witness, after having been duly sworn, was
7 examined and testified to as follows:

8 HEARING OFFICER ASCHMANN: You may
9 inquire.

10 DIRECT EXAMINATION

11 MS. CHEUK: Good afternoon, Ms. Henson.

12 MS. HENSON: Hello.

13 MS. CHEUK: Could you please identify
14 yourself for the record.

15 MS. HENSON: Sure. I'm Kylie Henson, the
16 assistant principal at Marshall Middle School.

17 MS. CHEUK: And what is your educational
18 background?

19 MS. HENSON: I have a bachelor's of
20 science degree in marketing. I have a master's
21 degree in educational leadership. I'm certified to
22 teach 6 through 12 marketing or business

1 administration, and my administration degree allows
2 me to work with pre-Ks through 12.

3 MS. CHEUK: Okay. As part of your
4 master's in educational leadership, did you have
5 any special education training?

6 MS. HENSON: Yes. So you have to take
7 special education courses and special education
8 law.

9 MS. CHEUK: Okay. And what is your
10 professional background prior to coming to --

11 MS. HENSON: Oh, prior to education? I
12 actually was an account manager for a marketing
13 company.

14 MS. CHEUK: Okay.

15 MS. HENSON: I taught preschool. I
16 taught preschool while I was going back to get my
17 teaching certification add-on with my bachelor's.
18 I was hired there to work with actually a special
19 needs child at the time.

20 MS. CHEUK: And how long have you been
21 the assistant principal?

22 MS. HENSON: I have been the assistant

1 principal at Marshall Middle, this is my second
2 year. And I was the assistant principal at E.B.
3 Smith Elementary the two years prior.

4 MS. CHEUK: Do you know Mr. Van Scoyoc,
5 Mr. Nanni, and REDACTED?

6 MS. HENSON: Yes, I do.

7 MS. CHEUK: How do you know them?

8 MS. HENSON: REDACTED is a sixth grade
9 student at Marshall Middle School.

10 MS. CHEUK: And in what capacities have
11 you worked with him?

12 MS. HENSON: Through the special
13 education processes.

14 MS. CHEUK: And as a sixth grader, so
15 he's brand new to Marshall; is that correct?

16 MS. HENSON: Correct, yeah.

17 MS. CHEUK: And typically, in your
18 experience at the middle school, is the start of
19 middle school a big transition for most students?

20 MS. HENSON: Yeah, it's a big transition
21 time. They have a lot more freedoms, you know,
22 they haven't been used to, meaning, like, they get

1 to walk down the halls by themselves and they have
2 a planner they have to get signed to go to
3 different places, lockers, changing for gym class,
4 PE every day. The building's bigger. There's more
5 classes to switch to across the whole building,
6 so...

7 MS. CHEUK: And how often would you say
8 you see REDACTED ?

9 MS. HENSON: I see him daily. I may see
10 him on the bus ramp. I have seen him in his
11 classes and in the hallways.

12 MS. CHEUK: Have you ever observed him in
13 a classroom?

14 MS. HENSON: I did. I observed him
15 August 30th, actually, with Mr. Amie (ph).

16 MS. CHEUK: Okay. And did you see him
17 interact with other students?

18 MS. HENSON: Yes.

19 MS. CHEUK: How would you describe those
20 interactions?

21 MS. HENSON: Typical. He talked with his
22 peers, he talks with adults. Nothing -- no red

1 flag.

2 MS. CHEUK: Okay. Did any of [REDACTED]'s
3 teachers -- have any of [REDACTED]'s teachers ever
4 referred [REDACTED] to school administration for
5 disciplinary reasons?

6 MS. HENSON: Yes.

7 MS. CHEUK: How many times this school
8 year?

9 MS. HENSON: So there have been three
10 discipline referrals. The first one was by a
11 teacher. The second referral was actually by -- we
12 had a substitute administrator that day, Mr. Lee,
13 and then the third one, I wrote.

14 MS. CHEUK: And do you recall when the
15 last -- the most recent incident occurred?

16 MS. HENSON: Yes, it was November 29th.

17 MS. CHEUK: And nothing since then?

18 MS. HENSON: Nothing since then.

19 MS. CHEUK: Okay. Did a case manager
20 ever advise you that he was having educational
21 issues in his classrooms?

22 MS. HENSON: Yes. Mrs. Hoeting had some

1 concerns in regards to his accommodations, in that
2 he was showing frustrations and anxiety when he
3 would have to be pulled to take all of his retakes,
4 which is an accommodation that he has.

5 MS. CHEUK: And how often would you say
6 you communicated with Mr. Van Scoyoc or Mr. Nanni?

7 MS. HENSON: It was almost daily, through
8 emails.

9 MS. CHEUK: And what time frame?

10 MS. HENSON: From the beginning of
11 school. We had some over the summer but from the
12 beginning of school up until probably beginning of
13 December after that last incident.

14 MS. CHEUK: Okay. Have you participated
15 in eligibility or IEP meetings regarding REDACTED over
16 the 2018-2019 school year?

17 MS. HENSON: Yes.

18 MS. CHEUK: And, actually, when did you
19 first attend an IEP meeting for REDACTED?

20 MS. HENSON: The first time I attended
21 was actually in Bradley. It was an IEP meeting.
22 The elementaries invite the middle schools to the

1 IEP as part of the transition so that we can look
2 at minutes and stuff like that that would go along
3 with the Marshall Middle School schedule.

4 MS. CHEUK: Okay. And looking at Exhibit
5 22 in the black binder --

6 MS. HENSON: Okay. Oops, sorry.

7 MS. CHEUK: What are these documents?

8 MS. HENSON: This is the invite for the
9 March 15th IEP at Bradley.

10 MS. CHEUK: Okay. And then that's -- the
11 next page, is that the sign-in sheet for that
12 meeting?

13 MS. HENSON: Yes.

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

16 MS. HENSON: No, they did not.

17 MS. CHEUK: What did you learn about
18 REDACTED from his then-current IEP team at that
19 meeting?

20 MS. HENSON: That he was making progress.
21 He had just -- I guess he had only spent one year
22 at Bradley, and that he was making progress, that

1 he was a conscientious student. I mean, there was
2 lots of good things said about him that day.

3 MS. CHEUK: Okay. Did you know at that
4 time that **REDACTED**'s eligibility team had determined
5 him no longer eligible for special education
6 services?

7 MS. HENSON: Yes.

8 MS. CHEUK: Sorry; getting to my
9 questions.

10 Looking at page -- sorry. I'll move on.
11 Sorry about that. Looking at Exhibit 28, others
12 have testified that these are the documents related
13 to an eligibility meeting held on July 10, 2018, at
14 Marshall Middle School. Did you attend that
15 meeting?

16 MS. HENSON: Yes.

17 MS. CHEUK: Had you had any communication
18 Mr. Van Scoyoc and Mr. Nanni between the March 15th
19 meeting and the July 10th meeting?

20 MS. HENSON: Yes. They had requested to
21 do an observation -- I think it was in May -- to
22 observe our math teachers.

1 MS. CHEUK: Okay. Had you met REDACTED yet
2 by this time?

3 MS. HENSON: I had not, no.

4 MS. CHEUK: What was your understanding
5 about why the eligibility team was meeting again
6 after the January meeting in that determination?

7 MS. HENSON: That there was new data or
8 documentation to consider that related to the
9 emotional disability and autism criteria.

10 MS. CHEUK: Okay. Did the team consider
11 that day the IEE report from the Kellar Center?

12 MS. HENSON: Yes.

13 MS. CHEUK: Did the team consider
14 Dr. Cameron's updated psychological report?

15 MS. HENSON: Yes.

16 MS. CHEUK: What conclusions did you draw
17 from listening to a discussion of both of those
18 reports?

19 MS. HENSON: That a lot of the data was
20 skewed in that many of the behaviors or
21 characteristics seen were being seen by the parents
22 but not in a classroom setting.

1 MS. CHEUK: And the team considered
2 classroom observations --

3 MS. HENSON: Yes.

4 MS. CHEUK: -- for that data point.

5 What conclusions did you draw from
6 listening to a discussion about those classroom
7 observations?

8 MS. HENSON: There were three that were
9 done. Ms. Banks is the principal at Bradley. She
10 had (indiscernible) reviewed as well as one that
11 Mr. Nanni had done.

12 MS. CHEUK: And I can point you to
13 Exhibit 33, if you need to refresh your memory.

14 MS. HENSON: Sure. And Mr. Gantley. He
15 had done one too.

16 MS. CHEUK: I'm sorry?

17 MS. HENSON: I think Mr. Gantley had done
18 one. 33?

19 MS. CHEUK: Yes. So what were -- I'm
20 sorry. What were the three observations again?

21 MS. HENSON: I know Mr. Gantley reviewed
22 one, for Mr. Gantley and Ms. Banks and Mrs. Nanni.

1 MS. CHEUK: And did Ms. Banks and
2 Mr. Nanni observe the same class?

3 MS. HENSON: I believe so, yes.

4 MS. CHEUK: Were those two observations
5 consistent?

6 MS. HENSON: No, they were completely --
7 they were opposite.

8 MS. CHEUK: And there was a discussion
9 about -- and Mr. Nanni was at this meeting; is that
10 right?

11 MS. HENSON: Yes, mm-hmm.

12 MS. CHEUK: So he was able to explain his
13 observation?

14 MS. HENSON: Mm-hmm.

15 MS. CHEUK: And you reviewed the other
16 observation.

17 Looking at that -- the other observation
18 of the same class period, it's the first page of
19 the exhibit, would you mind going down --

20 MS. HENSON: On 33?

21 MS. CHEUK: Yes.

22 MS. HENSON: Okay.

1 MS. CHEUK: First page under "good," it
2 looks like --

3 MS. HENSON: For Gantley?

4 MS. CHEUK: Oh, I'm sorry.

5 MS. HENSON: Second page?

6 MS. CHEUK: Third page.

7 MS. HENSON: Oh, I see.

8 MS. CHEUK: It looks like everything is
9 checked good except for one.

10 MS. HENSON: That wasn't observed.

11 MS. CHEUK: And that wasn't observed.

12 MS. HENSON: Yeah.

13 MS. CHEUK: Okay. And then there's a
14 narrative there, and then Mr. Nanni's observation
15 is after that. What conclusions did you draw from
16 listening to a discussion about those two
17 observations of the exact same class?

18 MS. HENSON: That the observation from
19 Mr. Nanni -- from reading it, it's written in a way
20 where you're walking into a room, trying to find
21 negative behaviors.

22 MS. CHEUK: And those same behaviors were

1 not documented by the principal of Bradley
2 Elementary?

3 MS. HENSON: Correct.

4 MS. CHEUK: How would you describe
5 Mr. Nanni's and Mr. Van Scoyoc's demeanor at that
6 eligibility meeting as the first time you're seeing
7 them in that setting?

8 MS. HENSON: I would say you could feel
9 tension.

10 MS. CHEUK: Were they deferential to
11 school administrators or teachers or --

12 MS. HENSON: Could you explain further
13 what you mean by that?

14 MS. CHEUK: Did they seem to trust what
15 was being told to them by anyone from -- at the
16 table?

17 MS. HENSON: No.

18 MS. CHEUK: Did you feel that they valued
19 anyone's input?

20 MS. HENSON: No, it -- it didn't feel
21 valued personally, no.

22 MS. CHEUK: And did they have ample

1 opportunity to provide their input?

2 MS. HENSON: Yes.

3 MS. CHEUK: Others have testified that
4 the team considered autism and ED at that meeting
5 per Mr. Van Scoyoc's request. Based on the IEE
6 report where there's a diagnosis of ADHD, do they
7 also request a review of the OHI criteria?

8 MS. HENSON: No.

9 MS. CHEUK: And others have testified
10 that the eligibility team determined REDACTED not
11 eligible for special education services under
12 autism and ED. Did you agree with the team's
13 determination?

14 MS. HENSON: I did. I do.

15 MS. CHEUK: Why?

16 MS. HENSON: After reviewing the data,
17 the information and the input from all those
18 documents, we were not reading or seeing if these
19 characteristics were being seen in a classroom
20 adversely affected his ability to progress in the
21 general population.

22 MS. CHEUK: Turning to Exhibit 34 -- and,

1 actually, these documents have previously been
2 identified as IEP meeting documents for the first
3 IEP meeting at Marshall Middle on August 6. Did
4 you attend that meeting?

5 MS. HENSON: Yes.

6 MS. CHEUK: Did [REDACTED] attend that
7 meeting?

8 MS. HENSON: Yes. He came at the
9 beginning of it.

10 MS. CHEUK: And what was your first --
11 your impression of him?

12 MS. HENSON: He was nervous. I think he
13 was anxious. He was -- which any child would feel
14 that way. It was a very formal setting, and it's,
15 you know, overwhelming. But he was able to
16 communicate, and he had a recording, I remember, of
17 what he said, but then he was able to answer
18 questions if he had anything.

19 MS. CHEUK: And how were [REDACTED]'s first
20 few days at school?

21 MS. HENSON: They were good. They were
22 good.

1 MS. CHEUK: How long did that first
2 meeting last? Do you remember?

3 MS. HENSON: I believe that meeting was
4 four hours.

5 MS. CHEUK: And Mr. Van Scoyoc and
6 Mr. Nanni had provided a lot of information to the
7 teachers --

8 MS. HENSON: Yes.

9 MS. CHEUK: -- and administrators.

10 Did the REDACTED you saw in the hallways at
11 school those first few weeks match up with the
12 description that was provided by the guardian and
13 the caregiver at that meeting?

14 MS. HENSON: No.

15 MS. CHEUK: Did he seem to differ from
16 his same-aged peers?

17 MS. HENSON: No.

18 MS. CHEUK: He didn't stand out in any
19 particular way?

20 MS. HENSON: No.

21 MS. CHEUK: Turning to Exhibit 38, do you
22 recognize that document?

1 MS. HENSON: I do.

2 MS. CHEUK: Did you prepare it?

3 MS. HENSON: I did.

4 MS. CHEUK: And what is the date of that
5 document?

6 MS. HENSON: September 17th.

7 MS. CHEUK: Are you aware of anything
8 else that took place that day?

9 MS. HENSON: That was the day of another
10 IEP meeting.

11 MS. CHEUK: Did you speak to REDACTED that
12 day?

13 MS. HENSON: I did.

14 MS. CHEUK: Can you recall anything in
15 particular that he said about the behavior?

16 MS. HENSON: And, you know, he was angry.
17 He was mad, he was upset, but he believed this
18 child had called him diabetic and he got angry.

19 MS. CHEUK: Okay. And what discipline
20 did he receive?

21 MS. HENSON: It was like a block where he
22 would miss out on PE.

1 MS. CHEUK: Did he miss one class? Two
2 classes?

3 MS. HENSON: Yes, it was like a loss
4 of -- because it happened in PE class --

5 MS. CHEUK: Okay.

6 MS. HENSON: -- so we were trying to
7 associate the behavior with where and when it
8 happened, and so he missed one block of PE.

9 MS. CHEUK: Okay. Turning to Exhibit 41,
10 do you recognize that document?

11 MS. HENSON: I do.

12 MS. CHEUK: And did you prepare it?

13 MS. HENSON: I did.

14 MS. CHEUK: Did you speak to REDACTED that
15 day?

16 MS. HENSON: Yes.

17 MS. CHEUK: And do you recall anything he
18 said about the behavior?

19 MS. HENSON: Yeah, I mean, again,
20 apparently a student had called him a noob, which
21 is like a -- he's a gamer, so, like, he loves
22 playing video games, and a noob is somebody who is

1 new to gaming. And so he took great offense to
2 that because he's really good at video games. And
3 he was angry about that, and so, again, he -- there
4 was a minor physical altercation -- the student,
5 who he said, said that.

6 MS. CHEUK: Okay. And what discipline
7 was imposed?

8 MS. HENSON: He received, I believe, two
9 days of in-school detention.

10 MS. CHEUK: And is that what -- did he
11 actually attend in-school detention?

12 MS. HENSON: He did not.

13 MS. CHEUK: So did Mr. Van Scoyoc and
14 Mr. Nanni agree with the discipline?

15 MS. HENSON: No.

16 MS. CHEUK: And would it be fair to say
17 they refused to accept the discipline?

18 MS. HENSON: Yes.

19 MS. CHEUK: So how did you resolve that
20 issue?

21 MS. HENSON: So they kept him out of
22 school for those two days, and so we resolved it by

1 accepting that as a consequence of staying out of
2 school those two days, and it wasn't something we
3 wanted to honestly fight about because we didn't
4 want [REDACTED] to be out of school longer.

5 MS. CHEUK: Okay. Do you think -- as
6 assistant principal for the building, would it be
7 appropriate for staff members to share concerns
8 with you about parenting or guardians?

9 MS. HENSON: Yes.

10 MS. CHEUK: Do you know if other Marshall
11 Middle School staff or teachers had concerns about
12 the intervention efforts you saw from [REDACTED]'s
13 caregivers?

14 MS. HENSON: Yes. The bombardment of the
15 emails or concerns of the accommodations. He would
16 come to me about that.

17 MS. CHEUK: Do you think any of that had
18 a positive or negative impact on [REDACTED]'s education?

19 MS. HENSON: I think it's limited. I
20 don't believe that -- I think a lot of
21 accommodations that we are providing, because of
22 the IEP and how it's documented, creates a lot of

1 his anxieties.

2 MS. CHEUK: Please turn to Exhibit 44 --
3 Exhibit 46.

4 MS. HENSON: Okay.

5 MS. CHEUK: Do you recognize that
6 document?

7 MS. HENSON: I do.

8 MS. CHEUK: Did you prepare it?

9 MS. HENSON: I did.

10 MS. CHEUK: And what date did this
11 incident occur?

12 MS. HENSON: This was November 28th,
13 which was the same day as the mediation.

14 MS. CHEUK: And how did you --

15 MR. VAN SCOYOC: Objection. What's the
16 relevance?

17 MS. CHEUK: Well, it is disciplinary --
18 do you want me to respond?

19 HEARING OFFICER ASCHMANN: No. I'm just
20 going to overrule that. His disciplinary records
21 during the most recent school year is very
22 relevant.

1 MR. VAN SCOYOC: It's relevant
2 (indiscernible).

3 HEARING OFFICER ASCHMANN: Okay. Please
4 continue.

5 MS. CHEUK: How did you interpret REDACTED's
6 behavior that day?

7 MS. HENSON: Again, he was upset. I
8 realized that the other -- he told me that another
9 child had been messing with his phone, and so --

10 MS. CHEUK: And how did he respond?

11 MS. HENSON: He responded -- he had a
12 pencil in his hand and the witnesses and the
13 victims said that he took it and he stabbed at him
14 on the arm.

15 MS. CHEUK: And -- so you mentioned there
16 was a mediation going on that day. Do you believe
17 there's a correlation, in your opinion?

18 MS. HENSON: I do.

19 MS. CHEUK: Did REDACTED share anything else
20 with you that day that was bothering him?

21 MS. HENSON: The next before, he had told
22 me he already started off having kind of a bad day

1 because, the night before, he said that he had
2 already broken, like, a favorite wine glass of
3 Jeff's, and he had felt really bad about that
4 because he didn't want to hurt Jeff's feelings
5 because it was one of his favorite glasses, and he
6 had already broken it, so...

7 MS. CHEUK: And, again, has REDACTED
8 received any other documented discipline since
9 November 28th.

10 MS. HENSON: No, he has not.

11 MS. CHEUK: And did the eligibility team
12 consider that disciplinary incident as its December
13 meeting?

14 MS. HENSON: Yes, we discussed it,
15 mm-hmm.

16 MS. CHEUK: Please flip to Exhibit 47.

17 MS. HENSON: Okay.

18 MS. CHEUK: Others have testified that
19 this exhibit includes documentation from the
20 eligibility meeting conducted in two parts:
21 December 14th was part one and January 11, 2019,
22 was part two. Do you recognize them?

1 MS. HENSON: I do.

2 MS. CHEUK: Did you attend this meeting?

3 MS. HENSON: I did.

4 MS. CHEUK: Did the team consider input
5 from the teacher?

6 MS. HENSON: Yes.

7 MS. CHEUK: Did the team consider REDACTED's
8 current grades?

9 MS. HENSON: Yes.

10 MS. CHEUK: Did the team consider any
11 behavior incidents during the 2018-2019 school
12 year?

13 MS. HENSON: Yes. We discussed the three
14 discipline (indiscernible).

15 MS. CHEUK: And did the team consider the
16 IEE observation report submitted by Christine
17 Willing?

18 MS. HENSON: Yes.

19 MS. CHEUK: Others have also testified
20 that REDACTED attended that meeting. What are your
21 thoughts on what he shared that day?

22 MS. HENSON: He was very well-spoken. He

1 was clearly now very comfortable with us because he
2 now -- you know, we're in December and he knows us.
3 He's looked us in the eye, communicated clearly.
4 Probably better than most sixth graders would have
5 done in that situation.

6 MS. CHEUK: So he appeared to be the
7 **REDACTED** you see every day at school?

8 MS. HENSON: Yeah. Smiling. He was very
9 positive.

10 MS. CHEUK: Do you remember what **REDACTED**
11 said in response to a question about what the
12 school could be doing differently?

13 MS. HENSON: I don't remember exactly. I
14 know that what he talked about was very positive
15 about his experiences.

16 MS. CHEUK: Okay. Looking at the
17 eligibility summary on page 458, it says that
18 the -- it states that the team discussed the autism
19 and D criteria worksheets, the team determined that
20 **REDACTED** does not meet the criteria for autism or ED.
21 Do you agree with those determinations?

22 MS. HENSON: I do.

1 MS. CHEUK: Why?

2 MS. HENSON: When we would go through the
3 criteria worksheet, he didn't show the
4 characteristics that you would see in classroom
5 settings whereas I remember, you know, socially --
6 and that it wasn't adversely affecting him of the
7 ability to progress.

8 MS. CHEUK: Do you think he required
9 specialized instruction or he requires specialized
10 instruction?

11 MS. HENSON: No, we didn't feel that it
12 required specialized instruction.

13 MS. CHEUK: And what about Ms. Willing's
14 observation? Did she not indicate that REDACTED was
15 exhibiting autistic behaviors?

16 MS. HENSON: Yes, she did. She
17 indicated, too, and that we considered one was in
18 PE, flapping of the arms, and then the second was
19 he was banging on the desks. However, our social
20 worker, who was also in the observation, had a very
21 different take on that in that she had no concern
22 about him, what he was going in PE because it's

1 very unstructured time when they're getting ready
2 and they're all kind of like squirrely.

3 And then the second one, she wouldn't
4 have called it banging on the table. She said he
5 was doing some tapping.

6 MS. CHEUK: Okay. And then you also
7 attended part two of that meeting?

8 MS. HENSON: I did.

9 MS. CHEUK: What evaluations and reports
10 did the team consider at this meeting?

11 MS. HENSON: So we looked at -- we were
12 looking at the observation from Mrs. Willing. I
13 believe we had some -- a little bit of discussion
14 again about the Kellar report and considered the
15 medical diagnosis of Duane's syndrome as well.

16 MS. CHEUK: Okay. And did you agree with
17 the team that ADHD characteristics were not being
18 seen at that time?

19 MS. HENSON: Yes.

20 MS. CHEUK: Did the team review any other
21 outside evaluations or documents?

22 MS. HENSON: Not that I remember.

1 MS. CHEUK: What did the team determine
2 whether or not to the OHI criteria?

3 MS. HENSON: We did determine that there
4 was truth in his strength, I believe it was on that
5 criteria, if I can look at it.

6 MS. CHEUK: Sure.

7 I believe we marked through on one of
8 them. Was that the -- OHI is the last one, isn't
9 it?

10 MS. HENSON: Yes. Yeah, so we said the
11 strength because he can look at the strength at the
12 Duane's syndrome with his eye and visually having
13 to move back and forth from the board to, you know,
14 his paper. But that, again, we didn't feel that it
15 necessarily required specially designed instruction
16 to meet those needs.

17 MS. CHEUK: And what do you think was the
18 strongest piece of data that the team relied on to
19 make that decision?

20 MS. HENSON: Classroom observations, his
21 current grades, the fact that he's making progress
22 in his classes, that he -- there are times, too,

1 according to teachers, he doesn't want to use
2 accommodations or didn't use the accommodations and
3 was still capable of producing typical work as his
4 same-aged peers.

5 MS. CHEUK: Okay. And, actually, if
6 you'll look quickly at page or Exhibit 53. What is
7 this document?

8 MS. HENSON: This is our report cards.

9 MS. CHEUK: And when did the first
10 semester end?

11 MS. HENSON: It would have been right at
12 the break or prior to the break.

13 MS. CHEUK: Prior to the second part of
14 the eligibility meeting?

15 MS. HENSON: Yes, mm-hmm.

16 MS. CHEUK: And what were his semester
17 grades, for the record, done the line?

18 MS. HENSON: As and Bs for his final,
19 looks like. As and Bs for his final grade of the
20 two average.

21 MS. CHEUK: So you have testified today
22 that you have attended eligibility meetings, IEP

1 meetings for [REDACTED] since March of last year. Do
2 you continue to agree that [REDACTED] is not eligible?

3 MS. HENSON: I do.

4 MS. CHEUK: And why?

5 MS. HENSON: He doesn't display any of
6 the characteristics that we typically see in
7 children who are identified as autistic or
8 emotionally disabled or with OHI. He is
9 progressing. He's able to -- even when he may have
10 a weakness, he's able to work through it and
11 provide, you know, same aged group work. It
12 doesn't seem to interfere with his ability to
13 learn.

14 MS. CHEUK: Anything else you'd like to
15 share with us?

16 MS. HENSON: I would just say that, in my
17 experience through all of this and the extensive
18 time spent in the special education process and my
19 interactions with [REDACTED], that I firmly don't
20 believe he's a student that's being well-served
21 with an IEP. And by "served," I mean he
22 unnecessarily bears the burden.

1 MS. CHEUK: Thank you.

2 MS. HENSON: Thanks.

3 MS. CHEUK: Please answer any --

4 HEARING OFFICER ASCHMANN: Cross-examine?

5 CROSS-EXAMINATION

6 MR. VAN SCOYOC: Yes. In the same
7 binder, can you please go to Exhibit 40. This is
8 the last signed IEP for a meeting on October 8th.
9 Can you please explain why --

10 MS. HENSON: Is there one in here? I'm
11 sorry.

12 MS. CHEUK: Oh, that's the one that's
13 (indiscernible).

14 MS. HENSON: I'm sorry. I just didn't
15 want you to go on to --

16 MR. VAN SCOYOC: Thank you, yeah. Okay.

17 MS. HENSON: Thank you.

18 HEARING OFFICER ASCHMANN: She did that
19 to me, too.

20 MS. HENSON: Okay.

21 MR. VAN SCOYOC: So this is a copy of the
22 last signed IEP meeting --

1 MS. HENSON: Yes.

2 MR. VAN SCOYOC: -- from October 8th,
3 2018. Can you explain why a properly convened IEP
4 team included -- wrote an IEP that included social
5 goals, that they had no intention of instituting
6 and implementing for at least one full academic
7 school year?

8 MS. HENSON: Can you repeat that again?
9 I'm sorry.

10 MR. VAN SCOYOC: Can you explain why a
11 properly convened IEP team agreed to an IEP with
12 social goals that they had no intention of
13 instituting for at least one full school year?

14 MS. HENSON: I don't understand. You
15 mean that we didn't provide?

16 MR. VAN SCOYOC: We're here today because
17 the school would like to end this IEP.

18 MS. HENSON: Yes.

19 MR. VAN SCOYOC: So just a few months ago
20 in October, an IEP team agreed to this --

21 MS. HENSON: Why did we put those goals
22 in? Is that what you mean?

1 MR. VAN SCOYOC: Why did you agree to an
2 IEP just last October?

3 MS. HENSON: Well, he's a student -- we
4 didn't have a signed -- well, we had a signed IEP,
5 but it was a stay-put IEP, and we were trying to
6 work to come up with an IEP that was appropriate
7 for the middle school, and even though we did find
8 him eligible, he still receives an IEP because you
9 would not sign consent to let go of the IEP.

10 MR. VAN SCOYOC: Do you think the social
11 goals in this IEP are important?

12 MS. HENSON: Do I think they're
13 important?

14 MR. VAN SCOYOC: For REDACTED's education.

15 MS. HENSON: I think that, without them,
16 he would still be successful.

17 MR. VAN SCOYOC: So why, then, in your
18 opinion, did an IEP team agree to that?

19 MS. HENSON: Why would we agree to the
20 goals?

21 MR. VAN SCOYOC: Yes.

22 MS. HENSON: So I would -- I would state

1 that maybe -- well, not maybe. We looked at
2 weaknesses where the weaknesses -- where we could
3 help him through the IEP since we had to have an
4 IEP, how would we address them.

5 MR. VAN SCOYOC: And is it your assertion
6 that those weaknesses no longer exist today?

7 MS. HENSON: I wouldn't say the
8 weaknesses don't exist. I would say the weaknesses
9 exist, but I could also argue that we could address
10 those weaknesses under a general education setting.
11 We have many supports that we could offer.

12 MR. VAN SCOYOC: Social support specific
13 to social development and social goals?

14 MS. HENSON: Yes. You can do it through
15 a behavior plan. We can do social goals through
16 behavior plan. We also have other students that do
17 receive some counseling services without a BIP or
18 anything. We just offer them because it's what
19 they need.

20 MR. VAN SCOYOC: If you could go, in
21 Exhibit 40, page 16 of the document, it's page 404
22 overall, could you read No. 5, measurable annual

1 goals.

2 HEARING OFFICER ASCHMANN: Please don't
3 ask her to read documents. Just ask her questions.

4 MR. VAN SCOYOC: The annual goal states,
5 "The given situation presented in counseling
6 sessions, REDACTED will accurately identify feelings
7 and appropriate coping strategies when presented
8 with real or imagined situations with four of five
9 trials by 8/14/2019." Could you help me understand
10 how he would be able to do that without an IEP?

11 MS. HENSON: Through a behavior plan.

12 MR. VAN SCOYOC: Specifically to this --

13 MS. HENSON: You can do a goal and you
14 could -- because you have to still have data, you
15 still have to observe him or check in on him
16 (indiscernible).

17 HEARING OFFICER ASCHMANN: With the truck
18 noise, I'm going to have to ask you to repeat that
19 because the court reporter can't get it down.

20 MS. HENSON: I'm sorry.

21 So I said you could address it through a
22 behavior plan because, even with the behavior plan,

1 we would have to keep data, check in on him,
2 counsel with him.

3 MR. VAN SCOYOC: Could you explain any
4 and all of your experiences that you have knowledge
5 of regarding REDACTED eloping from class, either in
6 school or during after-school activities?

7 MS. HENSON: Yeah. I think that there
8 are times -- I think that another thing he has
9 difficulty with, which kind of goes along with what
10 I said, that he has weaknesses socially, is he --
11 his coping mechanism, when he feels frustrated, is
12 to get away from the situation.

13 MR. VAN SCOYOC: And so are there
14 specific times that you can recount in which he
15 eloped from class?

16 MS. HENSON: Eloped from class? I know
17 that he will ask to go to the bathroom, and he may
18 take extra -- you know, extra time, more than usual
19 at times, as an avoidant strategy, which many
20 students do.

21 MR. VAN SCOYOC: Are you aware or do you
22 remember, I should say, the September 14th, 2018,

1 incident in which he was late to orchestra class
2 and, therefore, did not want to go in?

3 MS. HENSON: Yes. He wasn't late. He
4 was actually there on time, but he wouldn't go into
5 the class. He was, like, by the door but outside
6 in the hallway. He wouldn't do in. And I spoke
7 with him.

8 MR. VAN SCOYOC: Why didn't he want to go
9 in?

10 MS. HENSON: He was having anxiety
11 because he wasn't prepared for class.

12 MR. VAN SCOYOC: So what happened?

13 MS. HENSON: So I allowed him -- I said,
14 Do you want to talk this out and go talk to a
15 counselor and speak to them about that, you know,
16 to work through -- to come up with a strategy of
17 how we can help you make sure you're prepared for
18 class. I think we came up with he was allowed to
19 drop his folder off in the morning so that he
20 wouldn't have to worry about forgetting it in his
21 locker and not being able to go back to a locker to
22 get it, so he said that he thought that that would

1 help.

2 MR. VAN SCOYOC: So when he met with
3 Ms. Finn, did he go back to orchestra class
4 afterwards?

5 MS. HENSON: I can't remember if he did
6 that day or not, actually. So I -- I don't
7 remember. I don't know if it took the whole rest
8 of the period or not.

9 MR. VAN SCOYOC: I do have, in the
10 smaller binder -- it says volume 1. It's Exhibit
11 20.

12 MS. HENSON: Do you want this back?

13 MS. CHEUK: Yeah, I'm going to take that
14 back.

15 MS. HENSON: You said 20? I'm sorry.

16 MR. VAN SCOYOC: Yes.

17 MS. HENSON: Okay.

18 MR. VAN SCOYOC: This is a transcript
19 from a voicemail from Ms. Finn about the September
20 4th --

21 MS. CHEUK: I have an objection to this
22 exhibit. It's a lack of foundation. I have no

1 idea what date this recording was made on, how it
2 was made, where it came from. She didn't make the
3 call. She can't substantiate that it was her or
4 who it was.

5 MR. VAN SCOYOC: It was a voicemail
6 provided to me by Mr. Corpening when I requested
7 all documents from -- relating to REDACTED. So he
8 provided me the audio file and --

9 MS. CHEUK: But how would she have
10 knowledge of it?

11 HEARING OFFICER ASCHMANN: Please,
12 address me, not each other.

13 MS. CHEUK: I'm sorry.

14 HEARING OFFICER ASCHMANN: Please finish,
15 sir.

16 MR. VAN SCOYOC: I requested, in
17 preparing for due process for Mr. Corpening, any
18 documents relating to REDACTED's education, and one of
19 them was this voicemail from Kimberly Finn. And so
20 when I was provided with the audio recording of the
21 voicemail, I transcribed it into this audio
22 transcript.

1 HEARING OFFICER ASCHMANN: You
2 transcribed it?

3 MR. VAN SCOYOC: I have the audio
4 transcript on the USB key with me.

5 HEARING OFFICER ASCHMANN: Okay. Well, I
6 think --

7 MR. VAN SCOYOC: I mean, I have the --

8 HEARING OFFICER ASCHMANN: There is an
9 authentication problem, she's correct, in evidence
10 here. You can probably do it if you know how, but
11 I can't instruct you how to do it.

12 MR. VAN SCOYOC: Okay. All right.
13 That's fine.

14 You had mentioned, Ms. Henson, some sort
15 of correlation between the November 28th incident
16 between REDACTED and a peer that ultimately you sent
17 to court for assault charges?

18 MS. HENSON: I did not send him to court.

19 MR. VAN SCOYOC: That you referred to
20 Officer Jenkins and some sort of correlation
21 between that incident and the fact that we were --
22 Jeff and I were in mediation with Mrs. Guzman and

1 Mr. Corpening that day.

2 MS. HENSON: Yes.

3 MR. VAN SCOYOC: Could you explain?

4 MS. HENSON: The other -- there was
5 another referral -- it was 9/17. It was also the
6 same day as an IEP. So it stuck out in my head
7 that there was another thing happening, between the
8 school and parent, and he acted out.

9 MR. VAN SCOYOC: Are you aware that REDACTED
10 did not know that we were having mediation with the
11 school?

12 MS. HENSON: I was -- I was unsure if he
13 did or did not because I didn't mention it to him.

14 MR. VAN SCOYOC: Are you aware that he
15 has no knowledge of us being in reverse due process
16 right now?

17 MS. HENSON: I did not know that. I
18 don't talk to him about it.

19 MR. VAN SCOYOC: Okay. I don't have
20 anymore questions.

21 HEARING OFFICER ASCHMANN: Redirect?

22 MS. CHEUK: I have no redirect.

1 HEARING OFFICER ASCHMANN: All right.

2 Well, thank you very much. You're free to go.

3 MS. HENSON: Thank you. I appreciate
4 your time. Thank you.

5 (A brief recess was taken.)

6 LAUREN BROOKE SETTLE,
7 the witness, after having been duly sworn, was
8 examined and testified to as follows:

9 HEARING OFFICER ASCHMANN: You may
10 inquire.

11 DIRECT EXAMINATION

12 MS. CHEUK: Good afternoon, Ms. Settle.

13 MS. SETTLE: Good afternoon.

14 MS. CHEUK: Could you please identify
15 yourself for the record.

16 MS. SETTLE: Yes. I am Lauren Brooke
17 Settle. I teach sixth grade science at Marshall
18 Middle School.

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

21 MS. SETTLE: I have a degree in IdLS,
22 which is international disciplinary of liberal arts

1 studies. I minored in biology and mathematics, and
2 I have been teaching for 14 years, all at Marshall
3 Middle School. 13 eighth grade science and this is
4 my first year teaching sixth grade science. And I
5 have a degree to teach sixth through eighth, all
6 middle school math and science.

7 MS. CHEUK: Okay. Thank you.

8 MS. SETTLE: Mm-hmm.

9 MS. CHEUK: Do you know Mr. Van Scoyoc?

10 MS. SETTLE: Yes.

11 MS. CHEUK: And do you know Mr. Nanni and

12 **REDACTED**?

13 MS. SETTLE: Yes, I do.

14 MS. CHEUK: How?

15 MS. SETTLE: Through -- the first time I

16 met them was in the summertime, and then I had

17 **REDACTED** in my classroom -- assigned classroom.

18 MS. CHEUK: And how long is he in your

19 class each day?

20 MS. SETTLE: Approximately about an hour

21 each day. Classes are a little bit short of an

22 hour.

1 MS. CHEUK: And how would you describe

2 REDACTED?

3 MS. SETTLE: A typical sixth grade
4 student. Loves to play games, enjoys technology,
5 and just a typical student.

6 MS. CHEUK: Does he like science?

7 MS. SETTLE: He does. He does. He loves
8 science. Science, I think, is one of his favorite
9 subjects.

10 MS. CHEUK: And what academic strengths
11 does he exhibit in your classroom?

12 MS. SETTLE: He does really well for me
13 in the classroom. He does well on assessments. He
14 has done some great project work. He's done well
15 on the classroom assignments.

16 MS. CHEUK: And have you -- do you have
17 an opinion about his relationships, interactions
18 with his peers?

19 MS. SETTLE: He has two friends -- he's
20 moved classrooms, so he has actually just made a
21 new friend that he's been working with on a
22 project. He tends to kind of stick to one person

1 and, you know, doesn't, like, more so move around
2 and have a group of friends, but he doesn't have
3 problems with students in the classroom. But it's
4 not -- he doesn't struggle to find a partner in my
5 room.

6 MS. CHEUK: And how are his relationships
7 with adults, from what you see?

8 MS. SETTLE: With me, we have a fine
9 relationship. We have a good relationship. He
10 talks --

11 MS. CHEUK: I'm sorry.

12 MS. SETTLE: He talks to me. I'll talk
13 to him and ask him how his day's going. I have him
14 first period, so, you know, I'll say good morning.
15 He says good morning to me, and we'll have a
16 conversation.

17 MS. CHEUK: Would you say he has any
18 social needs?

19 MS. SETTLE: I would say that sometimes
20 it can be difficult for him if it's, like, a group
21 and he has a different idea. He may need to kind
22 of be guided a little bit in some of his social

1 aspects, but I wouldn't say it's anything out of a
2 normal range of being a middle school student and
3 kind of learning how to interact with each other
4 and other students.

5 MS. CHEUK: And what is his current grade
6 in your class?

7 MS. SETTLE: He has an 86 in my class.

8 MS. CHEUK: And has he presented any
9 behavioral challenges to you?

10 MS. SETTLE: No. No.

11 MS. CHEUK: All right. So let's look at
12 some exhibits. Turning to Exhibit 34, those
13 documents have been previously identified as IEP
14 meeting documents from the first IEP meeting at
15 Marshall Middle School on August 6th.

16 MS. SETTLE: Mm-hmm.

17 MS. CHEUK: Did you attend that meeting?

18 MS. SETTLE: I did.

19 MS. CHEUK: Did REDACTED attend that
20 meeting?

21 MS. SETTLE: Yes.

22 MS. CHEUK: And what was your first

1 impression of REDACTED?

2 MS. SETTLE: That he was just a really
3 cool, neat kid. He came in, he had a recording he
4 played. He was -- surprisingly, for me, I thought
5 he was very well put together and not as nervous as
6 you would expect for a sixth grader to come in and
7 around a whole group of adults. A lot of them
8 would typically shut down.

9 He presented himself really well. I even
10 spoke to him. We kind of broke for a little bit,
11 and he was in the room next door, and I went over
12 to talk to him and see how he was doing, and he
13 said he was excited to come to Marshall, and he was
14 showing me the game he was playing and just had the
15 normal conversation.

16 MS. CHEUK: And how were his first few
17 days in your classroom?

18 MS. SETTLE: Good.

19 MS. CHEUK: Did Mr. Van Scoyoc and
20 Mr. Nanni attend that first IEP meeting?

21 MS. SETTLE: Yes, they did.

22 MS. CHEUK: Did their attorney attend?

1 MS. SETTLE: Yes.

2 MS. CHEUK: And did you feel they had the
3 opportunity to share with [REDACTED]'s new IEP team all
4 of their concerns?

5 MS. SETTLE: Yes.

6 MS. CHEUK: Did the [REDACTED] you saw in your
7 classroom match up with the description provided by
8 Mr. Van Scoyoc and Mr. Nanni at that meeting?

9 MS. SETTLE: No. No, I don't think so.

10 MS. CHEUK: How is it different?

11 MS. SETTLE: Well, I had spoken to [REDACTED]
12 while there was a little break and asked if he was
13 excited for school, and he said he was. And then I
14 had spoken to Mr. Van Scoyoc, and he had said that
15 [REDACTED] was excited. At this point, Mr. Nanni was in
16 the bathroom. He came back from the restroom, and
17 I had mentioned something about him being excited,
18 and Mr. Nanni responded that that was not the case,
19 he was not excited, he was completely overwhelmed,
20 stressed. It seemed like he was very emotional. I
21 kind of figured that he would come in and he would
22 have a breakdown, and I figured it would be like

1 students that I have. I have a student who
2 actually -- we had a two-hour delay, and the child
3 was so distraught that lunch was before third
4 period instead of after, to where he was, like,
5 crying, upset.

6 And that's kind of what I figured REDACTED
7 would be like, where we'd have to tell him before
8 changes, we'd have to really talk to him, I'd have
9 to say, you know, it's going to be a different
10 schedule. I didn't have any issues like that. If
11 it was a different schedule, he seemed fine with
12 it. If it was -- you know, we went outside one day
13 in my classroom, and we did this videotaping of
14 weather, and he jumped in it and he did it. We
15 came back in, and I said, "Oh, you need to take
16 that quiz. Do you want to take it now?" "Sure."
17 Most kids would break down at that point and say,
18 you know, "What quiz? No. There's only 15
19 minutes." Or, you know, he was fine with that. He
20 was good with changes.

21 We have had a fire drill in the middle of
22 a quiz one time in my classroom. Came right back

1 in, sat down, got right back on the problem that he
2 was doing.

3 So what I expected from what I had heard
4 wasn't what I saw in my room.

5 MS. CHEUK: Okay. And then flipping to
6 Exhibit 47, these documents have testified --
7 others have testified that these documents relate
8 to part 1 and part 2 of an eligibility meeting. Do
9 you recognize them?

10 MS. SETTLE: Yes.

11 MS. CHEUK: And looking at the list of
12 participants, did you attend this meeting?

13 MS. SETTLE: Yes.

14 MS. CHEUK: Did the team consider input
15 from the teacher -- from you at that meeting?

16 MS. SETTLE: Yes.

17 MS. CHEUK: Did the team consider REDACTED's
18 current grades?

19 MS. SETTLE: Yes.

20 MS. CHEUK: Did the team consider any
21 behavior incidents?

22 MS. SETTLE: We talked about some, yes.

1 MS. CHEUK: And did the team consider the
2 IEE observation reports submitted by Christine
3 Willing?

4 MS. SETTLE: Yes. We went over
5 everything.

6 MS. CHEUK: Others have testified that
7 REDACTED attended that meeting. What are your
8 thoughts on that -- on what he shared with the
9 eligibility team that day?

10 MS. SETTLE: Yeah. Actually,
11 (indiscernible). He was --

12 MS. CHEUK: I'm sorry?

13 MS. SETTLE: I actually went to go get
14 him. I stepped out to go get him. He was in
15 history class. He didn't want to leave history
16 class. They were playing a game. But he came in.
17 I thought that he portrayed himself really well.
18 Again, same thing: Came in, he talked. Basically
19 said he was -- the year was going well, and I
20 remember specifically the attorney asking if she --
21 these were exact words -- "if I could sprinkle
22 magic fairy dust on you and you could change

1 anything you wanted, what would it be?" And he
2 said "nothing." And then I walked him back to his
3 classroom.

4 MS. CHEUK: Did he mention anything about
5 his accommodations?

6 MS. SETTLE: He said that they were fine,
7 I believe. We asked him if he liked them. He
8 said -- he just said they were fine. He didn't
9 really say much about it.

10 MS. CHEUK: Did you notice Mr. Van
11 Scoyoc's reaction to REDACTED's input?

12 MS. SETTLE: No.

13 MS. CHEUK: Did you notice Mr. Nanni's
14 reaction to REDACTED's input?

15 MS. SETTLE: He seemed a little agitated.

16 MS. CHEUK: Okay. Looking at the
17 eligibility summary, it states that -- and this is
18 157. It's the first page of the eligibility
19 summary, which is the --

20 MS. SETTLE: Page 157?

21 MS. CHEUK: I'm sorry. It's not 157.

22 MS. SETTLE: Okay.

1 MS. CHEUK: It's the fourth page of
2 Exhibit 47. There you go.

3 MS. SETTLE: Okay.

4 MS. CHEUK: It says, towards the bottom,
5 "The team discussed the autism and ED criteria and
6 worksheets. The team determined that REDACTED does
7 not meet the criteria for autism or ED."

8 As his classroom teacher every day, do
9 you agree with that determination?

10 MS. SETTLE: I do agree with that.

11 MS. CHEUK: Why?

12 MS. SETTLE: I don't see any
13 characteristics. Like I said, there's -- he
14 doesn't have any issues with schedule change. He's
15 able to complete his task. He doesn't -- for me,
16 for science test, he's probably the fourth or fifth
17 student done. And when he's -- for me, he has
18 never retaken a single test. So his assessment
19 scores were all 80 percent or higher. And he -- I
20 mean, he's not off task in my room. He's doing
21 what we're supposed to be doing.

22 MS. CHEUK: Does he use his

1 accommodations in your classroom?

2 MS. SETTLE: He has access to them, but
3 he chooses not to use them. I'll come over and
4 I'll say, "Would you like to use the board for your
5 test?" "No." "Do you want to go to a quiet room?"
6 "No." And he's fine. He takes the test, turns it
7 in. Like I said, it's always a passing grade.

8 You know, he'll take notes from the
9 board, he'll engage in activities, he'll do the
10 labs that we're doing. In fact, most of the time,
11 he likes the labs. He presented a project in front
12 of the whole class, which that takes a lot for a
13 kid to do that anyways. I mean, I had kids who
14 didn't want to present, and they were like -- I
15 said, I'll stand up there with you. I had a kid in
16 another class that I presented it for them because
17 they were -- they would not stand in front.

18 And he presented a board game to the
19 class, and he had the kids play it, and he picked
20 who was playing, and they were, like, getting into
21 the game. And then, at one time, there was a
22 question that I guess we had to learn, and they

1 were like, "That's not the right question." And
2 he's like, "Okay. That question isn't in the game.
3 Next question?" And he just kept, you know,
4 playing with them.

5 So he has interacted with the children in
6 the classroom, and I don't see this -- you know,
7 when I ask him a question, he looks at me, he talks
8 to me. I don't see those characteristics that I
9 see in my other students who do that.

10 MS. CHEUK: Did you also attend part 2 of
11 that meeting?

12 MS. SETTLE: I did.

13 MS. CHEUK: And what evaluations and
14 reports did the team consider at that point, the
15 second part?

16 MS. SETTLE: I think that --

17 HEARING OFFICER ASCHMANN: Just a minute.

18 MS. CHEUK: Sorry; we have to wait for
19 the trucks.

20 HEARING OFFICER ASCHMANN: Appreciate
21 your patience.

22 MS. CHEUK: He can't hear.

1 HEARING OFFICER ASCHMANN: The court
2 reporter can't hear when the trucks go by, and we
3 can't shut the windows because it gets --

4 MS. CHEUK: Because it's too hot.

5 HEARING OFFICER ASCHMANN: -- too hot in
6 here. We're working a balance.

7 MS. SETTLE: I believe that's when he
8 talked about the Duane's syndrome.

9 MS. CHEUK: Yes.

10 MS. SETTLE: I think that's what we
11 talked about that day.

12 MS. CHEUK: And has that impacted his
13 learning in your classroom?

14 MS. SETTLE: It hasn't in my classroom,
15 no.

16 MS. CHEUK: Did the team also discuss the
17 Kellar report --

18 MS. SETTLE: Yes.

19 MS. CHEUK: -- the 2018 IEE?

20 MS. SETTLE: And did you agree with the
21 team's consensus that ADHD characteristics were not
22 being seen at that time?

1 MS. SETTLE: I did. I did.

2 MS. CHEUK: Did the team review any other
3 outside documents or evaluations?

4 MS. SETTLE: Not that I can recall.

5 MS. CHEUK: What did the team determine
6 with regard to his continued eligibility under OHI?

7 MS. SETTLE: That he was not eligible.

8 MS. CHEUK: And what, for you, was the
9 strongest piece of data that convinced you that he
10 was no longer eligible?

11 MS. SETTLE: I think his ability to be
12 successful in the classroom and his frustrations
13 with the accommodations and, you know, the
14 checklist and all the different things that he
15 doesn't want to use. And for me, in my classroom,
16 I don't force him to use any of them. You know, he
17 has access to them. If he chooses to use them,
18 they're there. But he's successful without them.

19 And when you say, you know, you have got
20 to do this, you have got to do this checklist, you
21 have got to check that, that's where the anxiety
22 comes. And I feel like he kind of shuts down when

1 you start to force these things, like if you say
2 you have to use this privacy board, he doesn't want
3 to use it. So I say, "Here it is, it's your
4 option," and he chooses not to use it.

5 So that's where I think the
6 accommodations, if they're forced on him, that's
7 not going to be a successful thing for him. I
8 think that's going to cause him more stress. And
9 what I have noticed in my room is that he's very
10 successful without them, and he's very successful
11 on his own and doesn't need them.

12 MS. CHEUK: I appreciate that. Is there
13 anything else you want to share?

14 MS. SETTLE: The only thing that I would
15 say, is, again, with the list of accommodations is
16 just that I think they're overwhelming to him.
17 Like I have asked him, you know, "Do you want to
18 use this highlighter?" He's like, "No." You know,
19 he's fine with it. He is able to -- he has managed
20 the skill to be able to read something, pick out
21 parts of it. He's managed the skills of being able
22 to, you know, take an assessment and take it in the

1 classroom. He doesn't have to take it out of the
2 classroom. And I think he prefers that. I think
3 he prefers to be in the classroom with the students
4 and doing what all the rest of the students are
5 doing, and I feel that he's very successful in my
6 room.

7 Like I said, he's scored an A or B on
8 every assignment that he's done, and I don't force
9 those on him. I tell him, "Here they are. You
10 have access to them. You don't have to use them if
11 you don't want to." And I think that he does a
12 good job.

13 MS. CHEUK: Okay.

14 HEARING OFFICER ASCHMANN: You may
15 cross-examine.

16 CROSS-EXAMINATION

17 MR. VAN SCOYOC: You said that REDACTED
18 doesn't use any accommodations in class. Is that a
19 bit of hyperbole or is it true that he does not
20 have larger projects broken down into smaller ones,
21 he does not have help with organization, he does
22 not have an additional day to complete class work,

1 he does not have shortened homework or the option
2 to submit homework electronically?

3 MS. SETTLE: He does have the option.
4 Yeah, he does have the option. He typically does
5 not use it. Like the extra day, I have not seen
6 him use the extra day. For the long-based
7 projects, I usually do break-down tasks. I'll
8 say -- and I don't do that for a lot of kids, but
9 like day one, get these three things done.

10 So, for example, the game board project,
11 day one focused on the questions. You know, day
12 two focused on creating the board and doing the
13 pieces. That kind of thing, to help them -- and I
14 have done that for other students. I don't -- I
15 don't think that he needs the accommodations as far
16 as, you know, using -- or like a checklist. For
17 me, he will take a checklist, and he'll check it
18 off, but he won't look at it. He's not really
19 invested in that. He doesn't need it to do the
20 assignment. He's just doing it because it's
21 something he asked to do if some things got checked
22 off a box. That's kind of what I see in my

1 classroom.

2 MS. CHEUK: And he does submit his
3 homework electronically; correct?

4 MS. SETTLE: Yes. Right now, he does.
5 And I don't have a lot of homework in my classroom.
6 I mean, a lot of my homework is just studying and
7 looking over your notes. So, for me, he doesn't
8 submit a lot electronically. He has -- definitely
9 has the option of doing it electronically. And
10 he'll do -- he'll do things -- like right now,
11 we're doing a water portfolio, which is -- I mean,
12 you can do it electronically, but it's a -- like,
13 literally, a folded piece of paper and they're
14 gluing stuff in it and writing on them. He's doing
15 all that in class without, you know, doing the
16 electronic part.

17 MR. VAN SCOYOC: Okay. So to be clear,
18 he is using some accommodations?

19 MS. SETTLE: I guess the accommodation
20 for if he wants to submit electronically, he could
21 use that, yeah.

22 MR. VAN SCOYOC: That's the only one?

1 MS. SETTLE: Yeah. In my room, that
2 would be the only one.

3 MR. VAN SCOYOC: And breaking larger
4 projects down into smaller ones?

5 MS. SETTLE: I have done that for him. I
6 have broken some projects down for him.

7 MR. VAN SCOYOC: Okay. That's all the
8 questions I have.

9 HEARING OFFICER ASCHMANN: Thank you very
10 much. Free to go.

11 MS. SETTLE: Thank you.

12 (A brief recess was taken.)

13 TRACY HOETING,
14 the witness, after having been duly sworn, was
15 examined and testified to as follows:

16 HEARING OFFICER ASCHMANN: You may
17 inquire.

18 DIRECT EXAMINATION

19 MS. CHEUK: Good afternoon.

20 MS. HOETING: Good afternoon.

21 MS. CHEUK: Please identify yourself for
22 the record.

1 MS. HOETING: My name is Tracy Hoeting.

2 MS. CHEUK: And what is your position at
3 Fauquier County Public Schools?

4 MS. HOETING: I'm retired from Fauquier
5 County Public Schools as of January 4th, 2019.

6 MS. CHEUK: Okay. And what is your
7 educational background?

8 MS. HOETING: I have a master's in
9 education with a concentration in reading from UVA.

10 MS. CHEUK: Any additional specialized
11 training?

12 MS. HOETING: Oh, I have a certification
13 in special education but not a master's. At the
14 time, UVA required you could choose one path, but
15 you could not choose both paths. So I had a full
16 certification in special education and then the
17 master's in education.

18 MS. CHEUK: Okay. And prior to your
19 retirement, what was your job title?

20 MS. HOETING: I was a teacher at Marshall
21 Middle School, and I was **REDACTED**'s case
22 manager, along with other students. I taught -- at

1 my time at Marshall, I taught English, done
2 push-in, reading, pretty much whatever I was asked
3 to do.

4 MS. CHEUK: Okay. And what were your
5 special education responsibilities?

6 MS. HOETING: This year?

7 MS. CHEUK: Yes.

8 MS. HOETING: Well, special education
9 responsibilities don't vary from year to year. It
10 is always to write IEPs; attend eligibilities;
11 push-in for specific students if needed; keep track
12 of data so that progress reports can be written;
13 contact parents, family; support -- specific
14 support for the student as is listed in their IEP.
15 So every day can be a little bit different, and it
16 is different.

17 MS. CHEUK: And do you know Mr. Van
18 Scoyoc?

19 MS. HOETING: I do.

20 MS. CHEUK: Do you know Mr. Nanni and --

21 MS. HOETING: Yes.

22 MS. CHEUK: -- **REDACTED** ?

1 MS. HOETING: Mm-hmm.

2 MS. CHEUK: How do you know them?

3 MS. HOETING: Well, REDACTED, I know because
4 he was on my caseload, and I met with him at least
5 twice a day, sometimes more. Mr. Van Scoyoc, I met
6 for the first time in -- it was a meeting -- I
7 can't remember exactly what the purpose of that
8 meeting was. I think it was an eligibility but it
9 may have been an addendum. Off the top of my head,
10 I can't remember.

11 And then I met Mr. Nanni the first
12 time -- actually, the day I was asked to be REDACTED's
13 case manager, he happened to be in the school. And
14 so I went and I saw him to introduce myself,
15 because we had never met. I introduced myself, you
16 know, "here's my contact information."

17 MS. CHEUK: And about when was he
18 assigned to your caseload?

19 MS. HOETING: About October 8th --
20 October 5th.

21 MS. CHEUK: Okay. Do you know why he was
22 reassigned to you?

1 MS. HOETING: My understanding at the
2 time was that I had a lower teaching caseload than
3 was typical because I had agreed to write more
4 IEPs, because we had a lot of IEPs, and we began
5 the year with a lot of IEPs needing to be
6 rewritten. I like writing IEPs. I'm comfortable.
7 So I volunteered to have a lower teaching load in
8 exchange for writing more IEPs.

9 By the time October rolled around, we
10 were six weeks in to school, I had already written
11 a lot that needed to be done immediately.

12 MS. CHEUK: Right.

13 MS. HOETING: So my -- the demands of my
14 time were a little bit less, and his previous case
15 manager had more teaching responsibilities and more
16 preparations than I did.

17 So I was asked would that be okay, and --
18 "sure, absolutely."

19 MS. CHEUK: And when you served as
20 **REDACTED**'s case manager, how many other students did
21 you have on your caseload?

22 MS. HOETING: I can't answer that. And

1 the reason is because I don't know. Because what
2 happened was, because I was writing IEPs that
3 needed to be done, students would come in, in
4 groups of five. I would write the IEPs, I would
5 write the addendums, and then they would be moved
6 to another teacher and then more would come in.
7 So, at that point that he was assigned to me, I
8 might have had around 15. I might have had around
9 20. And my caseload was odd because they were
10 specifically with me for me to write their IEPs and
11 then hand them off to another teacher and then get
12 more to write their IEPs.

13 [REDACTED] was actually my only one that was
14 assigned to me and stayed with me.

15 MS. CHEUK: Okay. And how often -- you
16 said you saw him at the beginning of school, at the
17 end of school. How long -- for how long each day?
18 How long was that interaction?

19 MS. HOETING: Oh, okay. I would
20 typically try to meet [REDACTED] before he got into
21 homeroom because I wanted him to have the
22 experience of his homeroom with his peers, so I

1 would try to meet him around 8:15, 8:20, depending
2 on when his bus got there or if he was dropped off.

3 I would get him. We would meet for about
4 10 minutes. I would look at his planner. We'd go
5 through his checklist. We would -- I would make
6 sure that everything that he needed for the day was
7 there, and then, at the end of the day, I would go
8 into -- I would come in to his English class, and
9 again, you know, "REDACTED", can you show me how you
10 set up your study for tonight? Did you write down
11 what you need to do in your planner?"

12 Kind of -- whatever we needed for that
13 day.

14 MS. CHEUK: And during the time you
15 served as his case manager and you were conducting
16 those check-in/check-out procedures, did you see
17 any improvement in that regard? Did he --

18 MS. HOETING: I started keeping data
19 collection on the two goals that I was specifically
20 addressing, and when I began keeping that data, I
21 would say there was at -- five weeks before I was
22 able to say that, yes, he was doing it independent

1 on that day.

2 So we went five weeks with zero, as in
3 everything having to do, I had to prompt him, I had
4 to lead him through it. And then the first time he
5 did what I needed him to do, which was sit, open up
6 your iPad, scroll down to the day, show me what you
7 need to do, and without prompting. You know, this
8 is what I got to do. I did this last night, I
9 didn't get to this because I had to do something.
10 And then he said, Okay, but I'll move it to
11 tonight. I have got plenty of time.

12 And he'd scroll down. He'd go, Okay,
13 8:00 looks good, I can get that done. And I was
14 like, That's beautiful. That's exactly what, you
15 know, we need to be doing.

16 So I would keep track every day. It was
17 either yes or no. You do it independently, you
18 don't do it independently. Began at a zero -- and
19 the progress report's probably in here. It's got
20 the exact data. I want to say, by the time I
21 pulled the first data at nine weeks at Christmas,
22 he might have been at 60 percent, which, coming

1 from zero to 60's pretty good.

2 MS. CHEUK: How would you describe [REDACTED]
3 in general?

4 MS. HOETING: [REDACTED] was always respectful
5 and kind and engaging with me. He would tell me
6 jokes. He would share what was going on, you know,
7 when he was, you know, in the play, cross-country.
8 He had seen his sisters. He just was engaging.

9 MS. CHEUK: Did he present any behavioral
10 changes to you?

11 MS. HOETING: With me? Absolutely none.
12 Not even a (indiscernible).

13 MS. CHEUK: And did you -- were you aware
14 of the three documented discipline incidents?

15 MS. HOETING: Yeah, I was aware of them.

16 MS. CHEUK: Did you think they were
17 atypical for his age?

18 MS. HOETING: They were all kind of
19 impulsive activities, which is very typical for an
20 11-year-old.

21 MS. CHEUK: How would you describe his --
22 so he had a great relationship with you. Would you

1 describe his relationship with other adults the
2 same way?

3 MS. HOETING: I saw him interact with
4 Mrs. Wines quite a bit at the end of the day
5 because I pushed into her classroom. And she would
6 ask him a question, he would respond to her always
7 with respect, always with "oh, yes, I have got to
8 get that."

9 So that was about the only teacher I saw
10 him interact with consistently. I would see him
11 interact with other teachers on occasion. At no
12 point did anything come up that I'm like, "Oh, my
13 gosh, that's a problem" or "that's amazing." It
14 just was in the background.

15 MS. CHEUK: Okay. And did you see him
16 interact with peers in that same class that you
17 would push into?

18 MS. HOETING: I saw him interact with
19 peers quite a bit because, a lot of the times, I
20 would pull him right before homeroom, and as -- I
21 would try to take him to a room where it would be
22 kind of like quiet, and it isn't obvious that you

1 have got a teacher helping you, just respect for
2 him. And we would pass kids in the hall, and he'd
3 go, "Hey, we did that on Fortnite last night, and
4 tomorrow, I'm doing --" so I saw quite a bit of
5 interaction with other kids. Most of the
6 interaction did have to do with video games. "I
7 saw this great video. This is the game that we did
8 last night" or, you know, back and forth that kids
9 do. You know, "You're such a noob, you did a noob
10 thing last night," and they would laugh.

11 MS. CHEUK: You mentioned cross-country
12 and the school play. Did he participate in any
13 other extracurricular activities that you know
14 about while you served as his case manager?

15 MS. HOETING: Nothing that comes to mind.
16 I mean, I know he did orchestra, which I know that
17 it had to do with things after school for that, but
18 no, nothing comes to mind.

19 MS. CHEUK: Okay. Could you turn to
20 Exhibit 44? Others have testified, this is an IEP
21 meeting held on November 13th, 2018. Did you
22 attend that meeting?

1 MS. HOETING: Mm-hmm, yes.

2 MS. CHEUK: And prior to that meeting,
3 had you had much communication with Mr. Van Scoyoc
4 and Mr. Nanni?

5 MS. HOETING: I had been in another
6 meeting with Mr. Nanni. Prior to that time, any
7 communication with Mr. Van Scoyoc had been by
8 email.

9 MS. CHEUK: Okay. So what were your
10 overall impressions during that meeting of them?

11 MS. HOETING: I was really confused by
12 the way that meeting began. I was -- I was off-put
13 because it didn't start the way I was planning.
14 Does that make sense?

15 Immediately, something that -- an
16 accommodation that I had provided for REDACTED the
17 next day was like something that we had to discuss,
18 and I was given the impression that I had done it
19 wrong. And I remember looking at the math paper
20 going -- I literally sat and did that while looking
21 at his accommodations and checking them off
22 mentally. Okay, we have got half the problems, we

1 have got extended -- we have got extra space. And
2 I was really confused that that was the thing that
3 we had to talk about, and I didn't know how to
4 react to it. I was pretty confused with that.

5 MS. CHEUK: Okay. So do you recall the
6 purpose for that meeting?

7 MS. HOETING: The purpose for the
8 November meeting had to do with his math class.
9 That was the one that I do believe that the family
10 was requesting -- yes, to request his current math
11 teacher to change.

12 MS. CHEUK: Okay. And what did the team
13 decide that day?

14 MS. HOETING: The team decided that it
15 would probably be more disruptive for him to move
16 him at that time, that the class that he was in was
17 appropriately placed, and that he should stay where
18 he was.

19 MS. CHEUK: And did you agree with that
20 decision?

21 MS. HOETING: Yeah, I did.

22 MS. CHEUK: Let's turn to Exhibit 47.

1 MS. HOETING: Yes.

2 MS. CHEUK: Others have testified that
3 this exhibit contains documents from the
4 eligibility held in two parts: On December 14th and
5 January 11th. Do you recognize them?

6 MS. HOETING: Mm-hmm, yes, I do.

7 MS. CHEUK: Did you attend both parts?

8 MS. HOETING: Yes, I did.

9 MS. CHEUK: At part one of that meeting,
10 did the team consider the IEE observations
11 submitted by Christine Willing?

12 MS. HOETING: Yes, we did.

13 MS. CHEUK: Did the team consider input
14 from the teacher?

15 MS. HOETING: Yes.

16 MS. CHEUK: Did the team consider REDACTED's
17 current grades?

18 MS. HOETING: Yes.

19 MS. CHEUK: Did the team consider the
20 behavior incidents during the 2018-2019 school
21 year?

22 MS. HOETING: They were discussed, yes.

1 MS. CHEUK: Did the team consider [REDACTED]'s
2 participation in cross-country or in school play?

3 MS. HOETING: (No audible response.)

4 MS. CHEUK: Others have testified also
5 that [REDACTED] attended that meeting. What were your
6 thoughts on what he shared during that meeting?

7 MS. HOETING: He attended the second part
8 of the meeting. Right? No, no. He attended the
9 first. The second was after Christmas, the
10 first -- yes.

11 [REDACTED] came in, and I found him to be --
12 he was surrounded by adults. We have got, like,
13 eight or nine different adults. Mature, phrased
14 himself quite well, did not appear to -- did not --
15 I did not see any nervous behavior, that I would
16 have interpreted as nervous, you know, wringing of
17 the hands or scrunched over or a soft voice. He
18 was upright, he spoke, he was engaging, he was
19 conversational.

20 MS. CHEUK: Do you remember what he said
21 about his accommodations?

22 MS. HOETING: If I remember right -- and

1 it's been a while -- my remembering on the
2 accommodations is that he said they were fine. And
3 I remember, at one point, the attorney for the
4 family actually used a playful phrase, you know, if
5 I could change something, what would you want? And
6 he was like, "I'm good." He was good. He said he
7 liked Marshall. He did not present anything that
8 he was concerned or anxious, just this was -- this
9 is my -- this is it. And he seemed to be very
10 happy. Well, I shouldn't say "happy." I'm sorry.
11 He appeared to be fine. I don't know that anyone
12 is happy when they're sitting there surrounded by
13 ten adults.

14 MS. CHEUK: Right. Looking at the
15 eligibility summary, then, it states that the team
16 discussed the autism and ED criteria worksheets,
17 and the team determined that REDACTED does not meet
18 the criteria for autism or ED. Do you agree with
19 those determinations?

20 MS. HOETING: Absolutely, yeah. Yes.

21 MS. CHEUK: Why? In your own words.

22 MS. HOETING: In my own words, in my

1 opinion, he doesn't meet the criteria for either
2 one. When you go through the specific checklist of
3 "is this behavior here," the answer is consistently
4 no. And then, at the end, even if you have
5 answered no, at the end you're going to ask, does
6 he require specially designed instruction to meet
7 the general curriculum. And -- no.

8 MS. CHEUK: And in your role as special
9 education teacher in Fauquier County Public
10 Schools, did you provide specialized instruction to
11 some students?

12 MS. HOETING: Yes.

13 MS. CHEUK: So you know what that means?

14 MS. HOETING: Yes, I do.

15 MS. CHEUK: And you don't believe REDACTED
16 requires specialized instruction?

17 MS. HOETING: REDACTED did not receive
18 specialized instruction this entire year. He was
19 on the consult, and he had accommodations that were
20 met, but at no point was he specifically instructed
21 how to access the curriculum. He accessed it with
22 accommodations, but not with specially designed

1 instruction.

2 MS. CHEUK: Please -- and then with part
3 two of that -- oh, please look to Exhibit 49. It
4 looks like -- did you send this email on December
5 17th?

6 MS. HOETING: Yes.

7 MS. CHEUK: And what did it state?

8 MS. HOETING: It just says, "Attached,
9 please find the notice for the meeting on 1/11/19
10 and a copy of procedural safeguards." And it was
11 addressed to Adam Van Scoyoc, Mr. Nanni, and Shelby
12 Gohn.

13 MS. CHEUK: And according to this email
14 communication, when was part two scheduled for?
15 What date?

16 MS. HOETING: Oh, 1/11 at 8:30.

17 MS. CHEUK: And did Mr. Van Scoyoc
18 respond?

19 MS. HOETING: He did. He responded
20 with -- that "I will participant with conference
21 call. Jeff Nanni, Christine Willing will attend in
22 person."

1 MS. CHEUK: Okay. And he attached the
2 note of the meeting notice?

3 MS. HOETING: Mm-hmm, yes.

4 MS. CHEUK: And so there were some back
5 and forth, but you understood Mr. Van Scoyoc to be
6 available for the meeting on the 11th, it was just
7 a matter of what time?

8 MS. HOETING: Right. Initially, it was
9 the 11th at 8:30. 8:30 wasn't going to work. "Can
10 we do it another time?" So, yeah, there were some
11 back and forth, but it was my understanding that
12 that would be the date, 1/11.

13 MS. CHEUK: Okay. So going back to
14 Exhibit 47, and looking at the list of participants
15 for the January 11th, 2019, meeting, it looks like
16 you attended that portion of the meeting.

17 MS. HOETING: Mm-hmm.

18 MS. CHEUK: And -- but you have also
19 testified that you retired on January 4th. Why did
20 you -- why did you still come to that meeting?

21 MS. HOETING: I take my job really
22 seriously. These are not just names on my

1 caseload. These are little humans, and I'm very
2 attached to them. I want to see them be
3 successful.

4 And it was important enough to me that I
5 came up to be there because I wanted the right
6 thing to be done for [REDACTED] and the thing that would
7 help him the most. At the meeting, we discussed
8 the criteria, I answered it to the best of my
9 ability, and I agreed with the decision.

10 MS. CHEUK: So during that part two of
11 the meeting, did the team, again, consider input
12 from the teachers?

13 MS. HOETING: Yes.

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

16 MS. HOETING: Yes.

17 MS. CHEUK: Did the team consider any
18 behavior incidents?

19 MS. HOETING: Yes.

20 MS. CHEUK: Did the team consider the IEE
21 observation report submitted by Christine Willing?

22 MS. HOETING: Yes, but not as much as we

1 had -- you know, the other one, we really had
2 dissected it, but, yes, we did consider it.

3 MS. CHEUK: Did you also consider -- did
4 Ms. Willing attend that portion of the
5 eligibility -- either portion?

6 MS. HOETING: No.

7 MS. CHEUK: And have you had a chance to
8 review the eligibility summary on page 4 of Exhibit
9 47?

10 MS. HOETING: Let me look.

11 MS. CHEUK: Four pages in.

12 MS. HOETING: Yes. There's a criteria
13 here for OHI. Is that what you want me to look at?

14 MS. CHEUK: The summary, the eligibility
15 summary. It's right behind the sign-in sheets.

16 MS. HOETING: Yes. I have got it.

17 MS. CHEUK: And have you reviewed it
18 prior to today?

19 MS. HOETING: Yes.

20 MS. CHEUK: Do you believe it to be
21 accurate?

22 MS. HOETING: Yes. Accurate as in that's

1 what we discussed at the meeting?

2 MS. CHEUK: Yes.

3 MS. HOETING: Yes.

4 MS. CHEUK: And do you agree with the
5 team's determination that REDACTED is no longer
6 eligible for special education under OHI?

7 MS. HOETING: Yes.

8 MS. CHEUK: Did you agree that ADHD
9 characteristics were not being seen at that time?

10 MS. HOETING: No, I saw some ADHD
11 characteristics, absolutely. I think most
12 11-year-old boys are going to show some ADHD
13 characteristics on occasion. And I think I even
14 expressed that during the meeting, that, yeah, he
15 does have a tendency to wool-gather at times.

16 MS. CHEUK: But you agreed with the
17 ultimate conclusion --

18 MS. HOETING: Yes.

19 MS. CHEUK: -- that he was not --

20 MS. HOETING: Right.

21 MS. CHEUK: -- he does not require
22 special --

1 MS. HOETING: No, I do not --

2 MS. CHEUK: -- specialized instruction.

3 MS. HOETING: Right.

4 MS. CHEUK: Please see Exhibit 48. What
5 is that document?

6 MS. HOETING: This is the progress report
7 from 1/4/2019.

8 MS. CHEUK: Did you prepare it?

9 MS. HOETING: I did.

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

12 MS. HOETING: This is the one I was
13 looking for. The two goals that I was responsible
14 for, the first one is to initiate work, remain on
15 task, complete assignments, and check work for
16 accuracy. This is the one that I have data on, and
17 it shows that, when 20 checklists are examined with
18 the five subjects, that he has a 78 percent success
19 rate. With -- on 10 of the last 20, a 94 percent
20 success rate.

21 In the second one that I reported on -- I
22 think it's No. 5 -- yeah, that he was demonstrating

1 independence at a 14 percent level, and ended up at
2 63 percent.

3 MS. CHEUK: Okay. So do you still
4 believe today that [REDACTED] is not eligible?

5 MS. HOETING: Yes, I do believe that.

6 MS. CHEUK: And why?

7 MS. HOETING: Because [REDACTED] is succeeding
8 at Marshall Middle School, as evidenced with his
9 grades, by evidence with the data collection that
10 he is -- he's actually doing these goals
11 independently. I get it, 63 percent is not 100
12 percent, but it's a step in the right direction.
13 And this is being done while he's in classes that
14 are advanced. He's getting As, he's getting Bs --
15 not every time. Sometimes he gets a C, sometimes
16 he gets an F. But consistently what we're seeing
17 is the grades coming up and the mastery of the
18 curriculum coming up.

19 His STAR test on his reading went from,
20 like, a sixth grade to a ninth grade to even to the
21 high school level, which you can't -- there's no
22 way to look at that and say, Yeah, he's showing

1 great growth.

2 MS. CHEUK: Do you have anything else
3 you'd like to share? Thank you for being here.
4 Mr. Van Scoyoc will ask you some questions.

5 CROSS-EXAMINATION

6 MR. VAN SCOYOC: Ms. Hoeting, you said
7 that you don't think he should be eligible because
8 he's doing well academically. Do you agree or do
9 you think that the IDEA's lynchpin is to level the
10 playing field for special ed students and this
11 could be a major reason for his academic success,
12 the fact that he has an IEP and no level -- the
13 playing field isn't levelled?

14 MS. HOETING: Typically, the purpose of
15 the IEP is to provide specially designed
16 instruction. His IEP never did that. His IEP had
17 goals and accommodations. Accommodations can be
18 provided outside of an IEP. There are other
19 vehicles for accommodations.

20 MR. VAN SCOYOC: Okay. You said that you
21 did see ADHD symptoms and you expressed that during
22 the meeting.

1 MS. HOETING: Mm-hmm.

2 MR. VAN SCOYOC: Why was that not
3 indicated on -- on the meeting?

4 MS. HOETING: Because I didn't disagree.
5 If I -- can I -- can I recap where I said I did --
6 I did agree -- I do believe Ms. Buckowitz was
7 there. It had been brought up that he had
8 excessive bathroom visits in elementary school and
9 that that could be attributed to work avoidance,
10 and I agreed that, yes, that would very well be
11 work avoidance; that he had gone 52 times, I
12 believe the number was, and I said, Yeah, that
13 student that's -- lets leave in the classroom 52
14 times, which is almost a third of the year, that
15 definitely could be work avoidance. But we did not
16 see those behaviors in middle school. I don't know
17 what his clinic visit is at this point, but I know
18 that, by the time I had left, it was nowhere on par
19 to match that.

20 MR. VAN SCOYOC: No, I'm sorry. We were
21 on Exhibit 47, which was the continuation of the
22 eligibility meeting held on January 11th --

1 MS. HOETING: No, no. I expressed that
2 in the December one. That was the December one,
3 because Ms. Buckowitz was there, and I remember
4 saying that to her, agreeing with her. So, yeah,
5 I'm sorry if I said that wrong. That was the
6 December meeting that I agreed that 52 visits to
7 the clinic in one school year could be evidence of
8 work avoidance. And work avoidance can be part of
9 ADHD, characteristic.

10 MR. VAN SCOYOC: Okay. And on that
11 meeting in December, we only got through the
12 worksheets for ED and ASD?

13 MS. HOETING: That's true.

14 MR. VAN SCOYOC: And we did not get to
15 OHI --

16 MS. HOETING: No, we didn't.

17 MR. VAN SCOYOC: -- and that was when we
18 were going to reconvene.

19 MS. HOETING: Yes.

20 MR. VAN SCOYOC: The school reconvened
21 without me there, despite me filing the paperwork
22 to reschedule. But if you had that concern that he

1 did have ADHD in the December meeting, how come
2 that wasn't brought up? What changed between
3 December and --

4 MS. HOETING: Nothing changed. I had
5 already expressed my opinion, and it was already
6 part of the criteria in the ED. I think it came up
7 there. I had already expressed it.

8 MR. VAN SCOYOC: So the fact that it's
9 not listed on Exhibit 47, page 464, sounds like a
10 mistake on behalf of the IEP team?

11 MS. HOETING: No. A teacher can agree
12 that there is a characteristic, but I didn't say
13 that it got in the way of his learning. And I
14 admitted and said that, yeah, it was present in
15 elementary school but not present in middle,
16 therefore, no, I'm not seeing characteristics of
17 ADHD in middle school. That was based on the
18 report that Mr. Nanni gave of 52 visits in
19 elementary school.

20 MR. VAN SCOYOC: Okay. Was it difficult
21 for you to be his case manager and implement his
22 accommodations?

1 MS. HOETING: I didn't implement his
2 accommodations.

3 MR. VAN SCOYOC: Be the one checking?

4 MS. HOETING: I mean, that's a goal.
5 Most of his accommodations were done in the
6 classroom.

7 MR. VAN SCOYOC: His IEP in general.

8 MS. HOETING: Oh, yeah. At times, yes.
9 There was a lot -- there were a lot of balls to
10 juggle with his IEP. Math worksheets had to be,
11 you know, half of the -- half of the problems,
12 excessive white space, lined up. Then, you know,
13 the iPad, you know, you had to have that, and if it
14 wasn't charged, we had to get it charged. I mean,
15 there was just a lot of little things to make sure.
16 He had the P (ph) checklist. I had to make sure
17 that teachers had those. I wanted to make as
18 seamless and as easy for the teachers as possible,
19 so I did a lot of the paperwork that -- to make
20 their lives easy. They don't need to go and make
21 copies of the checklist if I can do it.

22 So -- and was it hard? I don't know how

1 to answer that because it was just part of my job,
2 and I do my job. I've had other kids that were way
3 more difficult than him, if that answers your
4 question. But I --

5 MR. VAN SCOYOC: Just tell me about

6 REDACTED

7 MS. HOETING: I know. I understand.

8 MR. VAN SCOYOC: Oh, on the November
9 13th, 2018, meeting to discuss switching REDACTED's
10 math class, you said that you agreed with the
11 decision not to switch. Are you aware that, via
12 attorneys, we did end up switching his math class
13 after an unsuccessful mediation at that point?

14 MS. HOETING: I am aware of that, yes.

15 MR. VAN SCOYOC: And what are your
16 thoughts on that?

17 MS. HOETING: I wish that it had been
18 done in a different manner, because I was there the
19 day that he came to that class, and he didn't
20 really understand that he was leaving one teacher
21 and going to another, and he didn't have a good
22 transition. I mean, he got -- it ended up being

1 fine. He ended up liking Mrs. Kohler's class, but
2 that initial moment, I was the one that worked with
3 him, and he was scared, he was confused, he wanted
4 to be with Mrs. Dudley.

5 He said those words, "I want to be with
6 my teacher." And I was in a position that I
7 couldn't say "let's go back to Ms. Dudley." I was
8 in a position that "you must go here now. What can
9 I do to make this easier for you?"

10 So that's all I can say is I wish that he
11 had -- I wish the transition has been easier on
12 him. That upset me.

13 MR. VAN SCOYOC: Did Jeff offer to come
14 to the school to escort him in to help with the
15 transition on that day?

16 MS. HOETING: On that initial day? I am
17 not aware of that being an offer. It may have
18 been, but I was not privy to that information.

19 MR. VAN SCOYOC: Okay.

20 MS. HOETING: I was there with him,
21 though, in the class, and I was the one that, you
22 know, that was there as he was upset, and I was

1 upset. I don't like seeing a student that I had --
2 I'm close to and I'm attached to and I enjoy not
3 being happy.

4 MR. VAN SCOYOC: Are you aware that we
5 talked with him extensively about the switch --

6 MS. HOETING: No --

7 MR. VAN SCOYOC: -- and prepared --

8 MS. HOETING: -- I'm not aware of that.

9 MR. VAN SCOYOC: So is that normal
10 behavior, then, to spend over an hour the night
11 before in talking to a child about a switch and him
12 seeming happy and then having what sounds like a
13 pretty severe reaction?

14 MS. HOETING: I have no idea what you-all
15 talked about. He didn't share anything with me. I
16 only had what I knew at that moment, and that was
17 he did not want to go into that classroom, and that
18 would be a hundred percent normal.

19 MR. VAN SCOYOC: And why did you agree
20 with the decision not to switch from Mrs. Dudley to
21 Mrs. Koehler's math class?

22 MS. HOETING: Mrs. Dudley is a very, very

1 good math teacher. Both of my children had her,
2 and I trust her methods, and I know that her
3 students typically do very well and they make a lot
4 of progress. Also, switching a kid mid-year is
5 generally traumatic to them. They build a
6 relationship with that teacher, and I saw that
7 relationship play out on that day. So that is why
8 I would not have thought it would have been the
9 best for him.

10 MR. VAN SCOYOC: Were you aware there was
11 quite a bit of tension between REDACTED and
12 Mrs. Dudley?

13 MS. HOETING: I was aware that there was
14 some disagreements at times. He was confused a
15 couple of times with, you know, maybe instructions,
16 but I didn't get the feeling that he disliked her.
17 I never got that. And I never got the feeling that
18 she disliked him.

19 MR. VAN SCOYOC: That's all my questions.
20 Thank you.

21 MS. HOETING: Sure.

22 MS. CHEUK: I have a couple of redirect.

1 HEARING OFFICER ASCHMANN: Yes, ma'am.

2 REDIRECT EXAMINATION

3 MS. CHEUK: Ms. Hoeting, who insisted on
4 changing his math class? Who requested to change
5 his math class?

6 MS. HOETING: I don't know. I wasn't
7 part of that. I just came in that day and I was
8 told --

9 MS. CHEUK: At the IEP meeting that --

10 MS. HOETING: Oh, at the -- I'm so sorry.

11 MS. CHEUK: -- who requested the math
12 change?

13 MS. HOETING: The family requested it.

14 MS. CHEUK: And if Mr. Nanni had offered
15 to come to -- if you knew about that offer, would
16 you think that would be appropriate?

17 MS. HOETING: Highly inappropriate to
18 have --

19 MS. CHEUK: For Mr. Nanni to accompany
20 him to class?

21 MS. HOETING: That would be highly
22 inappropriate. That would be the type of thing

1 that would create him -- it would separate him out
2 from the other students, and it would potentially
3 make him to be an object of derision, and I would
4 strongly have said, "Please don't."

5 MS. CHEUK: Thank you.

6 HEARING OFFICER ASCHMANN: Is that it?

7 MS. CHEUK: That's all I have.

8 HEARING OFFICER ASCHMANN: Well, thank
9 you very much for coming.

10 MS. HOETING: Thank you, sir.

11 HEARING OFFICER ASCHMANN: You're free to
12 leave.

13 (A brief recess was taken.)

14 MARGRETA GRADY,

15 the witness, after having been duly sworn, was
16 examined and testified to as follows:

17 HEARING OFFICER ASCHMANN: Thank you.
18 You may inquire.

19 DIRECT EXAMINATION

20 MS. CHEUK: Good afternoon.

21 MS. GRADY: Good afternoon.

22 MS. CHEUK: Good evening, almost. I

1 thought it was 4:30; it's not.

2 Could you please identify yourself for
3 the record.

4 MS. GRADY: Yes. My name is Margreta
5 Grady. I'm a licensed clinical social worker, and
6 I am the school social worker.

7 MS. CHEUK: What is your educational
8 background?

9 MS. GRADY: I have a bachelor's degree in
10 biology and a master in social work with a
11 specialization in mental health.

12 MS. CHEUK: And do you have a license?

13 MS. GRADY: Yes. I'm a licensed clinical
14 social worker, and I have a pupil personnel
15 services license.

16 MS. CHEUK: Okay. And what is your
17 professional background?

18 MS. GRADY: I have experience doing
19 intensive in-home. I have 7 years' prior
20 experience as a school social worker in the
21 alternative school. And then I have some private
22 experience as a clinical director of a small

1 agency, and then I was a program manager of a small
2 agency. And then I recently spent five years as a
3 private mental health therapist. And then I just
4 came back to the school in July. So I'm eight
5 months in now to being back at the school.

6 MS. CHEUK: Okay. And what are your
7 special education responsibilities?

8 MS. GRADY: I am responsible for sitting
9 on the eligibility teams, and I also interview
10 families for the social histories. And then,
11 under the school social worker umbrella, I do
12 suicide assessments, threat assessments, risk
13 assessments, IEP counseling, and also counseling
14 for students that they want to have additional
15 support but they don't have an IEP. I'm sure I'm
16 forgetting something because we do a lot.

17 MS. CHEUK: I move to qualify her as an
18 expert in social work.

19 HEARING OFFICER ASCHMANN: Any objection?

20 MR. VAN SCOYOC: No objection.

21 HEARING OFFICER ASCHMANN: So recognized.

22 MS. CHEUK: Thank you.

1 Do you know Mr. Van Scoyoc?

2 MS. GRADY: Yes.

3 MS. CHEUK: Do you know Mr. Nanni?

4 MS. GRADY: Yes.

5 MS. CHEUK: Do you know REDACTED?

6 MS. GRADY: (No audible response.)

7 MS. CHEUK: How do you know REDACTED?

8 MS. GRADY: He's a student at Marshall
9 Middle School, and that's one of the schools that
10 I'm responsible for.

11 MS. CHEUK: And when did you first meet
12 REDACTED?

13 MS. GRADY: I think it was August 17th.
14 It was the first week of school. I met him for his
15 first counseling session.

16 MS. CHEUK: So how often do you meet with
17 him?

18 MS. GRADY: Depending on snow and whether
19 he's absent, once or twice a week.

20 MS. CHEUK: And how long -- in what
21 settings?

22 MS. GRADY: I meet with him for

1 one-on-one counseling once a week for about 30
2 minutes, and then he's also a member of my social
3 skills group, and that's about 30 minutes on
4 Fridays.

5 MS. CHEUK: And do regular education and
6 special education students participate in those
7 social skills groups?

8 MS. GRADY: Yes. The social skills
9 group, about half of them do not have an IEP and
10 about have of them do.

11 MS. CHEUK: Okay. And you must know
12 REDACTED pretty well by now.

13 MS. GRADY: I would say so.

14 MS. CHEUK: How would you describe him?

15 MS. GRADY: He is a trier, he's a hard
16 worker. He's bright. He's pleasant. A little bit
17 quirky.

18 MS. CHEUK: How would you describe his
19 relationships with adults?

20 MS. GRADY: He's polite and respectful in
21 the interactions I have had with him, always.

22 MS. CHEUK: And what about any

1 interactions you witnessed with his peers?

2 MS. GRADY: He does absolutely great in
3 the social skills group, and then I observe him in
4 class for his IEP goals, and I have not seen any
5 problems with his peers. The only reason I say
6 he's a little quirky is sometimes his body language
7 is just a little quirky, like in the hall, when you
8 see him walking by or something, but I haven't
9 observed any significant social skills deficits.

10 MS. CHEUK: And are you aware of the
11 disciplinary incidents that **REDACTED** has been involved
12 in this school year?

13 MS. GRADY: Yes.

14 MS. CHEUK: Is it something you would
15 discuss in your counseling sessions with **REDACTED**?

16 MS. GRADY: Yes, we would have discussed
17 it.

18 MS. CHEUK: Okay. And do you notice
19 anything remarkable about the dates on which those
20 disciplinary incidents occurred?

21 MS. GRADY: Yeah, they seemed to be
22 correlated when there's a big meeting that has to

1 do with him. I believe two of the incidents
2 happened on the exact day. One happened on the day
3 that the mediation happened here, and I believe
4 there was an incident on September 17th when we had
5 that -- that was an IEP meeting, yeah. So at least
6 two of them were on the same day. And then the
7 third one was within two or three days of a big
8 meeting.

9 MS. CHEUK: And, in your opinion, what do
10 you make of that, if anything?

11 MS. GRADY: I think he gets super
12 stressed out. He knows that there's a lot of
13 people talking about him, and he gets super
14 stressed out, and we can all only tolerate so much
15 stress, and he just can't handle the additional
16 stress, and he acts out.

17 MS. CHEUK: Looking at Exhibit 33 -- or
18 36, those documents have already been identified as
19 IEP meeting documents for the second IEP meeting
20 for REDACTED at Marshall Middle School on September
21 17th?

22 MS. GRADY: Mm-hmm.

1 MS. CHEUK: Did you attend that meeting?

2 MS. GRADY: Yes.

3 MS. CHEUK: Was that the first time you
4 had met Mr. Van Scoyoc --

5 MS. GRADY: Yes.

6 MS. CHEUK: -- and Mr. Nanni?

7 MS. GRADY: Yes.

8 MS. CHEUK: And what was your first
9 impression?

10 MS. GRADY: My first impression of
11 Mr. Nanni is that he was extremely anxious and
12 nervous. My first impression of Mr. Van Scoyoc is
13 that he was a little nervous and just very
14 concerned about REDACTED.

15 MS. CHEUK: And did -- going along with
16 that, did they have the opportunity to share all
17 those concerns?

18 MS. GRADY: Yes, they did.

19 MS. CHEUK: And they were -- were they
20 represented by an attorney at that meeting?

21 MS. GRADY: Yes.

22 MS. CHEUK: Does the REDACTED you see in

1 your counseling office every week, twice a week,
2 match up with the description provided that day or
3 as described by Mr. Van Scoyoc and Mr. Nanni?

4 MS. GRADY: No. Mr. Nanni described him
5 as stifled, he can't be himself, his logic is
6 different than everybody else's. And I remember
7 sitting in that meeting thinking that, Wow, that
8 doesn't sound like the REDACTED I know.

9 In counseling, we had talked about his
10 goals, and they were very logical. He didn't seem
11 to be stifled to me. He's himself at school.

12 MS. CHEUK: Please flip to Exhibit 42.
13 Do you recognize this document?

14 MS. GRADY: Yeah, this is Ms. Willing's
15 independent report.

16 MS. CHEUK: And what date did her
17 observation take place?

18 MS. GRADY: On Friday, October 19th.

19 MS. CHEUK: And so that date at the top
20 of her report that says "date of observation," does
21 that --

22 MS. GRADY: That's incorrect.

1 MS. CHEUK: That's incorrect?

2 MS. GRADY: Yeah. It happened on a
3 Friday.

4 MS. CHEUK: Okay. Was anything unusual
5 going on that day with respect to the schedule at
6 school?

7 MS. GRADY: Yes. We had a PBIS assembly
8 that afternoon, and so that meant that all the
9 classes were shortened by about ten minutes.

10 MS. CHEUK: Okay. What does PBIS stand
11 for?

12 MS. GRADY: Oh, gosh, positive behavior
13 intervention and support, I think. It's just the
14 kids that haven't had any significant discipline
15 during each quarter get to go to this big assembly
16 and so something fun in the afternoon.

17 MS. CHEUK: Okay. And had you
18 communicated with Ms. Willing in advance of that?

19 MS. GRADY: As soon as I realized that
20 that was happening that day and she was coming that
21 day, I emailed her, and that was at 8:55 that
22 morning. And she emailed me right back and said,

1 "Oh, no problem, I'm already in the parking lot."
2 And so she came in the building I think, right
3 around 9:00. And I believe his PE class started
4 at, like, 9:23 or something that day, or 9:30.

5 MS. CHEUK: But were you concerned that
6 the observation would be conducted on an abnormal
7 day?

8 MS. GRADY: No. I mean, it just gives us
9 more opportunity to observe how he responds to
10 stress, I guess, or excitement, if you want to say.

11 MS. CHEUK: Had you previously met
12 Ms. Willing?

13 MS. GRADY: I had not.

14 MS. CHEUK: Do you know if she had
15 conducted observations before?

16 MS. GRADY: I don't know. I would have
17 to assume that, as a licensed school psychologist,
18 she would have, but I don't know.

19 MS. CHEUK: Do you know if she had a
20 prior relationship with REDACTED?

21 MS. GRADY: I don't know.

22 MS. CHEUK: Did you accompany her during

1 her entire observation?

2 MS. GRADY: For all of her classroom
3 observations, yes.

4 MS. CHEUK: Did you ever observe her
5 talking to **REDACTED** during the observation?

6 MS. GRADY: Not that I recall.

7 MS. CHEUK: Did you observe her talking
8 to any staff?

9 MS. GRADY: Yeah. She asked to talk with
10 Mrs. Hoeting.

11 MS. CHEUK: Did you observe anything
12 inappropriate in her behavior during that -- the
13 observation that day?

14 MS. GRADY: During the English class, she
15 kind of stepped out of her corner and stepped
16 forward and started going through papers on a table
17 at the back of the room. I didn't know whose
18 papers they were, but they weren't **REDACTED**'s. And so
19 I wasn't sure whose papers they were or why she was
20 going through them.

21 MS. CHEUK: Okay. Have you reviewed her
22 report?

1 MS. GRADY: Yes.

2 MS. CHEUK: Did you document your own
3 observation that day?

4 MS. GRADY: Yes, I did.

5 MS. CHEUK: Was it a formal report that
6 you made?

7 MS. GRADY: Not the type of formal report
8 that would go in a student file, no.

9 MS. CHEUK: Did you notice any
10 discrepancies between her report of what she
11 observed and your notes that you compiled?

12 MS. GRADY: Yeah, I think there were at
13 least four discrepancies. The first one that leapt
14 out to me was she wrote something about, upon
15 entering the building, that she was notified that
16 it was a shortened schedule. And I had let her
17 know sooner than that. I just thought that was odd
18 that she would write something inaccurate in the
19 report like that. So that was the first thing that
20 jumped out at me.

21 And then the next major thing was, in the
22 PE class, let's see, the fourth paragraph down

1 here, she wrote, "REDACTED
2 on the teacher, as he spun around in circles in his
3 seat, clapped his hands, made noises, and flapped
4 his arms."

5 First of all, she wouldn't know if he was
6 struggling to stay focused because she's not REDACTED.
7 So, to me, that's conjecture. And then, second of
8 all, when she wrote he spun around in circles,
9 clapped his hands, made noises, and flapped his
10 arms, in my notes -- I can't remember what I wrote
11 but it was something like he tapped his arms.

12 So kind of everything that she writes in
13 her report, she seems to have exaggerated his
14 behaviors. So --

15 MS. CHEUK: And just for reference,
16 Exhibit 43, is that your notes?

17 MS. GRADY: Oh, yes, that's my notes.

18 MS. CHEUK: Okay.

19 MS. GRADY: Yeah. So let's see. I wrote
20 "when she was saying that he spun and flapped his
21 arms," I wrote "he touched his arms, looked at his
22 arms, made a comment to a peer and looked at the

1 ceiling." So it's just different, but it seems
2 like she had exaggerated what he was doing.

3 And, then, a couple of paragraphs farther
4 down, one of the teachers started asking the kids
5 to tell, you know, repeat what the rules of the
6 game were, she wrote that several students were
7 calling out the answer, including REDACTED, who yelled
8 out five-plus kids, and he was correct. And in my
9 recollection and in my notes, he was the first kid
10 out of that whole large room of PE students that
11 called out the correct answer.

12 So if he's struggling to stay focused,
13 then why is he the only one that knows the answer?

14 MS. CHEUK: Right. Okay.

15 MS. GRADY: And then there wasn't
16 anything significantly different in orchestra or
17 math. And then in English class, in a couple of
18 places, I wrote that he was slightly distracted,
19 and I think her words were kind of more that he was
20 more distracted. I'm going to have to get to the
21 right page here.

22 So, in one place, she writes, "REDACTED

1 began visibly more stressed, as he began to shake
2 his legs and rub his face." So I guess that's just
3 a matter of opinion, but I didn't write anything
4 about him being visibly stressed. I just wrote
5 that he was kind of moving around and he had his
6 hands on his face.

7 And then the last part that was really
8 significantly different was the very -- the end of
9 the observation. She wrote, "When the teacher said
10 it was time to clean up, **REDACTED** began hitting the
11 desk repetitively and bouncing in his seat. He was
12 significantly more agitated as he knew he did not
13 even get to start the assignment." And I don't
14 believe that she would know why he was agitated. I
15 believe that's conjecture on her part.

16 And then in my report -- let's see if I
17 can get it to here -- I wrote something about "he
18 dramatically leaned back in his seat. He wiggled
19 in his seat, and he tapped his hands on the table."
20 And she wrote "hit his hands on the table."

21 And just for reference, that was the end
22 of the shortened day, and so he was then going to

1 be able to go to the PBIS assembly, so he could
2 have leaned back dramatically in his seat because
3 he was excited, "Hey, the school day's over. I get
4 to go, woo-hoo, go have fun with my friends."

5 And so I thought that was inaccurate in
6 her report.

7 MS. CHEUK: And what about her
8 conclusions, her summary and recommendations at the
9 end, specifically what don't you agree with?

10 MS. GRADY: Okay. So I think she starts
11 with English. "REDACTED" should receive push-in
12 support from his case manager to provide him direct
13 instruction in the classroom." I don't agree that
14 he needs push-in support. He's a capable student.
15 And he's not using push-in instructional support
16 now, so why would we add that?

17 So then, under "social and emotional,"
18 she mentioned that she had placed the two fingers
19 up to his head and made a comment that "this is me
20 right now." And I actually didn't observe that
21 happen, but I did follow-up with him after to make
22 sure he was okay.

1 She says he's clearly stressed, and the
2 school team needs to determine the best method in
3 reducing this stress. And if I can reference the
4 independent Kellar Center report, many of the
5 instruments in the Kellar Center report talk about
6 that -- like, for example, the Conners, everything
7 is very elevated at home, but a lot of the scores
8 aren't elevated at school.

9 So she's saying that he's significantly
10 stressed at school and wanting him to have
11 additional supports at school for being stressed,
12 but the written Kellar Center report is really
13 saying that more of his stress is happening at
14 home. So I don't think the school needs to provide
15 him those supports.

16 And then he did not appear to have any
17 close friendships, which doesn't necessarily impact
18 his academics. There's a lot of people that don't
19 have close friendships that do fine academically.

20 I think those were the main ones that I
21 disagreed with.

22 MS. CHEUK: Okay. Did you share your

1 notes and your observations and your opinions about
2 this report at an eligibility meeting?

3 MS. GRADY: Yes.

4 MS. CHEUK: Please turn to Exhibit 46.

5 Well, I can just ask you: Did you attend the
6 eligibility meeting on December 14th, 2018?

7 MS. GRADY: Yes.

8 MS. CHEUK: And did the team consider
9 your notes that you just shared -- or at least part
10 of, that are included here -- did you --
11 (overlapping conversation).

12 MS. GRADY: -- my report, yes, yes.

13 MS. CHEUK: Did you speak from these
14 notes?

15 MS. GRADY: Yes, I did.

16 MS. CHEUK: And did the team thoroughly
17 consider this IEE report?

18 MS. GRADY: Yes.

19 MS. CHEUK: Others have testified that
20 REDACTED also attended that meeting.

21 MS. GRADY: Yes.

22 MS. CHEUK: What are your thoughts on

1 what he shared with the eligibility team that day?

2 MS. GRADY: He came in, he was poised, he
3 was confident, and he was asked if the school could
4 do anything different, and he said nothing
5 different.

6 MS. CHEUK: Did he appear to be the REDACTED
7 that you see at school every day?

8 MS. GRADY: Yes.

9 MS. CHEUK: All right. Every week.

10 MS. GRADY: Yes.

11 MS. CHEUK: And for part one of that
12 meeting, the eligibility states -- eligibility
13 summary states that the team discussed autism and
14 the ED criteria worksheets.

15 MS. GRADY: Yes.

16 MS. CHEUK: And determined REDACTED did not
17 meet that criteria.

18 MS. GRADY: Yes.

19 MS. CHEUK: Do you agree with that
20 determination?

21 MS. GRADY: I agree with that
22 determination, yes.

1 MS. CHEUK: Why do you agree?

2 MS. GRADY: Well, let's see. Why do I
3 agree? He doesn't need specially designed
4 instruction in order to progress academically. He
5 is not -- out of all the students I have worked
6 with in 25 years, he doesn't match with my
7 understanding of what an ED student, who has
8 special education services, looks like.

9 MS. CHEUK: And did the team go through
10 the criteria worksheets?

11 MS. GRADY: Yes.

12 MS. CHEUK: Did you provide input --

13 MS. GRADY: Yes.

14 MS. CHEUK: -- on the team?

15 MS. GRADY: I agree with all their
16 answers on the criteria worksheets.

17 MS. CHEUK: And for part two of that
18 meeting on January 11th, did the team, again,
19 consider the observation reports --

20 MS. GRADY: Yes.

21 MS. CHEUK: -- and your input?

22 MS. GRADY: I believe so, yeah.

1 MS. CHEUK: Did the team consider input
2 from the teacher?

3 MS. GRADY: Yeah, I think Mrs. Settle was
4 there for that one.

5 MS. CHEUK: And his current grades?

6 MS. GRADY: Yes. We always consider
7 current grades.

8 MS. CHEUK: And did you agree with the
9 team's determination that day --

10 MS. GRADY: Yes.

11 MS. CHEUK: -- with regard to OHI?

12 MS. GRADY: Yes.

13 MS. CHEUK: Out of all the data that you
14 heard at both of those eligibility meetings and
15 with your own experience with REDACTED, what is the
16 strongest piece of data that supports the
17 eligibility team's decision?

18 MS. GRADY: It's a little bit of a
19 combination, but having followed him around all day
20 through three different classes and observing how
21 well he focused and how he was accessing the
22 curriculum without push-in supports, I walked out

1 that day thinking he doesn't qualify for special
2 education. And then I can back that up with what I
3 read in the Kellar Center report about his
4 executive function and that he has mild autism.
5 That backs up my kind of observational experience.
6 So both of those taken together.

7 MS. CHEUK: Okay. Do you have anything
8 else you'd like to share?

9 MS. GRADY: Let's see. We talked about
10 the discipline. Not that I can think of right at
11 the moment.

12 MS. CHEUK: Okay. Thank you for your
13 time.

14 HEARING OFFICER ASCHMANN: Cross?

15 CROSS-EXAMINATION

16 MR. VAN SCOYOC: You had mentioned that
17 **REDACTED** had some issues in school behaviorally two
18 different times on days where I had meetings with
19 the school. On November 28th, are you aware that
20 **REDACTED** had absolutely no idea that Jeff or I were
21 meeting with school officials in mediation?

22 MS. GRADY: I wouldn't have access to

1 that information.

2 MR. VAN SCOYOC: In your opinion, would
3 it make any sense that there be an impact on his
4 behavior that day in school?

5 MS. GRADY: Oh, there absolutely could be
6 an impact, yes. Children are sponges and they
7 react very strongly to the people around them, so
8 if you and Jeff were acting anxious, nervous,
9 concerned, he could easily pick up on that, and
10 that could impact his behavior.

11 MR. VAN SCOYOC: There are some pretty
12 substantial differences in your report versus the
13 report from Christine Willing.

14 MS. GRADY: Yeah.

15 MR. VAN SCOYOC: I think we can all agree
16 to that.

17 MS. GRADY: Yeah.

18 MR. VAN SCOYOC: So do you think she's
19 lying?

20 MS. GRADY: I have been turning that over
21 in my mind. I wouldn't want to accuse a fellow
22 professional of lying. The only thing I can think

1 of is that she had a preconceived notion coming in
2 of what she was looking for and that she saw what
3 she was looking for. Other than that, I can't
4 really explain it.

5 MR. VAN SCOYOC: So you think she was
6 biased, coming in?

7 MS. GRADY: Yeah, maybe so.

8 MR. VAN SCOYOC: Oh, you said too that,
9 in your report, you disagreed with something
10 Ms. Willing said because she -- at the end of
11 class, he seemed unusually excited or something to
12 that effect, and you had said that it was most
13 likely because he was excited that he was about to
14 go to the PBIS assembly.

15 MS. GRADY: Mm-hmm.

16 MR. VAN SCOYOC: Are you aware that he
17 was not eligible to go to that assembly?

18 MS. GRADY: He went to the first one.
19 This would have been October. And then there was
20 another one that he was not eligible to go to.

21 MR. VAN SCOYOC: So did you observe him
22 going to the PBIS assembly?

1 MS. GRADY: No, I did not.

2 MR. VAN SCOYOC: But, to your knowledge,
3 he did go?

4 MS. GRADY: As far as I know, yes.

5 MR. VAN SCOYOC: So you don't know.

6 MS. GRADY: I could be wrong, yeah.

7 MR. VAN SCOYOC: You don't know.

8 MS. GRADY: I don't know for sure. I
9 just know that there was one, and he left the room
10 in company with the kids that were going to it.
11 That's all I know.

12 MR. VAN SCOYOC: Okay. Are you aware
13 that, tomorrow, she will be testifying so --

14 HEARING OFFICER ASCHMANN: That's
15 irrelevant, sir. Please don't do that.

16 MR. VAN SCOYOC: It's my final question.

17 MS. GRADY: Okay.

18 HEARING OFFICER ASCHMANN: Redirect?

19 MS. CHEUK: I have nothing on redirect.

20 HEARING OFFICER ASCHMANN: All right.

21 Well, thank you very much for coming.

22 MS. GRADY: Thank you, sir.

1 HEARING OFFICER ASCHMANN: We appreciate
2 your time, you had to wait all day. Thank you.

3 MS. CHEUK: Thank you, Ms. Grady.

4 MS. GRADY: Thank you.

5 HEARING OFFICER ASCHMANN: Does that
6 conclude your case, ma'am?

7 MS. GRADY: Yes, sir.

8 HEARING OFFICER ASCHMANN: All right.
9 Well, we'll take up at 10:00 tomorrow. Mr. Van
10 Scoyoc, is Mr. Nanni going to come tomorrow and
11 present?

12 MR. VAN SCOYOC: I have no idea. He was
13 very overwhelmed this morning, as you can tell.

14 HEARING OFFICER ASCHMANN: Yeah, he
15 seemed kind of -- (overlapping conversation.)

16 MR. VAN SCOYOC: We kind of switched
17 brains --

18 (At 6:37 p.m., Day 1 of the above hearing
19 was concluded until February 28, 2019, at 10:00.)
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I, Bobbi J. Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

Bobbi J. Fisher, NCRA Registered Professional
Reporter/Transcriber
April 2, 2019

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