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**June 23, 2023**

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**RE: [REDACTED], THE STUDENT, AND [REDACTED] AND [REDACTED], THE PARENTS V. WILLIAMSON  
COUNTY SCHOOLS, APD Case No. 07.03-222053J**

Enclosed is a *Final Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division  
Tennessee Department of State

Enclosure(s)

**BEFORE THE TENNESSEE DEPARTMENT OF EDUCATION DIVISION OF  
SPECIAL EDUCATION**

**IN THE MATTER OF:**

█, **THE PARENT,**  
█, **THE STUDENT,**  
█, **THE PARENT,**  
*Petitioner,*

**APD Case No. 07.03-222053J**

**v.**

**WILLIAMSON COUNTY SCHOOLS,**  
*Respondent.*

**FINAL ORDER**

This matter was heard in Franklin, Williamson County, Tennessee before Steve R. Darnell, Administrative Judge, assigned by the Department of State, Administrative Procedures Division (APD) pursuant to Tennessee Code Annotated § 49-10-606(a) and State Board of Education Rules, Special Education Programs and Services, 0520-01-09-.18. Attorneys Marjorie A. Bristol represented Petitioners, █ the student and █ and █ the parents. Attorney Angel McCloud and Deanna Arivett represented Respondent, Williamson County Schools (WCS).

**PROCEDURAL HISTORY**

This matter was scheduled to be heard over three days, i.e., November 3, 7, and 9, 2022. The parties were unable to complete their proof during this time, and the matter continued over to December 5, and 8, 2022. WCS's lead counsel had family related health issues that delayed the continuation of the hearing. A witness central to the case developed pregnancy related health issues that prohibited her from completing her testimony. After giving birth, the witness was unable and/or unwilling to resume her testimony due to her care of her newborn. The hearing resumed on April 13, 21, and 25, 2023. The evidentiary hearing ended after eight days on April

25, 2023. The parties filed the hearing transcript consisting of 2,171 pages with APD on May 10, 2023. The 264 hearing exhibits and five video exhibits were filed with APD on the same date. Petitioners filed their proposed findings of fact on May 26, 2023, and WCS filed its findings of fact on June 9, 2023. Petitioner filed their reply brief on June 14, 2023. The record closed on June 14, 2023.

### **ISSUES FOR DETERMINATION**

1. Did Petitioners show, by a preponderance of the evidence, that WCS failed to provide [REDACTED] a free appropriate public education (FAPE) in [REDACTED] least restrictive environment (LRE) during [REDACTED] [REDACTED] grade year at [REDACTED] in violation of the Individual with Disability Education Act (IDEA)?<sup>1</sup>
2. Did Petitioners show, by a preponderance of the evidence, that WCS committed a procedural violation of the IDEA, that resulted in substantive harm to [REDACTED] or [REDACTED] parents, when it failed to notify [REDACTED] parents of the use of a restraint of [REDACTED] during [REDACTED] bus ride on September 22, 2021?
3. Did Petitioners show, by a preponderance of the evidence, that WCS committed a procedural violation of the IDEA, that resulted in substantive harm to [REDACTED] or [REDACTED] parents, when it failed to notify [REDACTED] parents of its proposed change in [REDACTED] applied behavioral analysis (ABA) services at the May 6, 2022, IEP team meeting?
4. Did Petitioners show, by a preponderance of the evidence, that WCS's proposed change in ABA services at [REDACTED] May 6, 2022, IEP team meeting was an improper modification of [REDACTED] IEP?

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<sup>1</sup> Petitioners also allege WCS conduct violated § 504 of the Rehabilitation Act of 1973 and the Americans with Disability Act (ADA).

5. Did Petitioners show, by a preponderance of the evidence, that [REDACTED] requires additional ABA services for [REDACTED] to access [REDACTED] FAPE?

### **SUMMARY OF DETERMINATION**

It is **DETERMINED** that Petitioners have failed to carry the burden of proof and show, by a preponderance of the evidence any of the above allegations. Accordingly, this Due Process complaint is **DISMISSED**. WCS is the prevailing party. This determination is based on the following findings of fact and conclusions of law:

### **FINDINGS OF FACT**

#### **Background Facts:**

1. [REDACTED] is a [REDACTED]-year-old student enrolled with Williamson County Schools (WCS). [REDACTED] is currently enrolled in [REDACTED]. [REDACTED] is diagnosed with autism spectrum disorder (ASD). [REDACTED] mother, [REDACTED], PhD, is an associate professor at Middle Tennessee State University in the Department of Elementary and Special Education. [REDACTED] father, [REDACTED], works in the health care data analytics software industry and hold a bachelor's degree in computer science engineering, a master's degree in business administration, and a master's degree in information systems.
2. [REDACTED] was first diagnosed with ASD when [REDACTED] was approximately 16 to 18 months old. [REDACTED] family resided in the state of Texas at the time where [REDACTED] attended a private school from [REDACTED] through the [REDACTED] grade.
3. During the summer after [REDACTED] [REDACTED] grade year, the family relocated to the state of Illinois. [REDACTED] attended a public school in Kildeer Countryside School District (Kildeer). [REDACTED] public school evaluated [REDACTED] and determined [REDACTED] was eligible for special education and related services due to [REDACTED] ASD.

4. [REDACTED] first exhibited behavioral episodes while attending school in Illinois. [REDACTED] school provided [REDACTED] ABA services by a Board Certified Behavior Analyst (BCBA). This was effective in reducing [REDACTED] behaviors.

5. [REDACTED] attended Kildeer public schools through the [REDACTED] grade. During the summer after the sixth grade, [REDACTED] family relocated to Williamson County, Tennessee. [REDACTED] enrolled in [REDACTED]. [REDACTED] continued to receive special education and related services when [REDACTED] enrolled at [REDACTED]. However, WCS did not provide [REDACTED] ABA services.

6. [REDACTED] behavioral episodes increased during [REDACTED] [REDACTED] grade year prompting [REDACTED] IEP team to remove [REDACTED] from [REDACTED] general education setting to focus on [REDACTED] behaviors. [REDACTED] behaviors included noncompliance, elopement, property destruction, and physical aggression. [REDACTED] parents did not believe [REDACTED] behaviors allowed [REDACTED] to return to the general education setting during [REDACTED] [REDACTED] grade year and did not request any general education instruction for [REDACTED].

7. After [REDACTED] [REDACTED] grade school year, [REDACTED] parents filed a Due Process complaint under the IDEA alleging WCS was not providing [REDACTED] appropriate services, e.g., ABA services. The parties settled this Due Process complaint prior to [REDACTED] beginning [REDACTED] [REDACTED] grade year at [REDACTED].

8. [REDACTED] attended extended school year (ESY) during the summer between the [REDACTED] and [REDACTED] grade school years. [REDACTED] WCS staff including [REDACTED] transportation personnel received training of [REDACTED] behavior intervention plan (BIP). [REDACTED] had very few behavioral incidents during ESY and no behavioral incidents while riding the bus during ESY. [REDACTED] progressed toward [REDACTED] IEP goals and objectives during ESY.

9. Pursuant to the parties' settlement agreement, WCS hired Dr. Laura Forkum, PhD, an independent BCBA-D from Chattanooga to complete monthly fidelity checks to ensure WCS

staff properly implemented [REDACTED] BIP. WCS provided [REDACTED] parents Dr. Forkum's reports once completed. WCS also provided [REDACTED] parents [REDACTED] behavior data sheets on a weekly basis.

10. WCS also began providing [REDACTED] with three hours of direct ABA services by a BCBA during the ESY and five hours of direct ABA services by a BCBA and three hours of consultation services by a BCBA during [REDACTED] [REDACTED] grade year at [REDACTED].

11. WCS also completed a new Functional Behavior Assessment (FBA) for [REDACTED] and provided training on the implementation of [REDACTED] BIP to [REDACTED] transportation staff.

**[REDACTED] [REDACTED] Grade Year:**

12. [REDACTED] began the 2021-2022 school year as a [REDACTED] grade student at [REDACTED]. In preparation for [REDACTED] move from [REDACTED] to [REDACTED], [REDACTED] Individualized Education Program (IEP) team met on January 14, 2021, and again on April 9, 2021. [REDACTED] IEP team met again on July 30, 2021 and amended [REDACTED] IEP to include the ABA services contemplated in the settlement agreement. [REDACTED] parents and attorney Marjorie Bristol attended and participated in these meetings and agreed to the changes made to [REDACTED] IEP.

13. [REDACTED] IEP team met on nine occasions during [REDACTED] [REDACTED] grade year at [REDACTED], i.e., July 30, 2021, October 4, 2021, November 12, 2021, November 16, 2021, December 16, 2021, February 28, 2022, March 31, 2022, April 19, 2022, and May 6, 2022. For each of these meetings, WCS provided [REDACTED] parents with copies of draft IEPs, prior written notice (PWN) when changes were proposed for [REDACTED] IEP, and finalized copies of [REDACTED] IEPs, meeting notes, and related documents.

14. [REDACTED] IEPs, hearing notes, and hearing testimony confirm [REDACTED] parents and Petitioners' attorney attended each of these IEP team meetings. All requisite parties attended each of these

IEP team meetings except a general education teacher. [REDACTED] parents waived the attendance of a general education teacher at [REDACTED] IEP team meetings. [REDACTED] parents and Petitioners' attorney fully participated in each meeting, and their ideas and suggestions were discussed at the meeting and incorporated into [REDACTED] IEP when warranted.

15. Ms. Rachel Hopp, BCBA provided [REDACTED] ABA services during [REDACTED] [REDACTED] grade year. Ms. Hopp completed [REDACTED] FBA and [REDACTED] BIP. She also conducted two student specific training (SST) sessions on August 6 and 20, 2021, for WCS staff who would be working with [REDACTED]. during the [REDACTED] grade year concerning implementation of [REDACTED] BIP. Ms. Hopp also provided training to [REDACTED] transportation staff of how to implement [REDACTED] BIP.

#### **Behavioral Episodes on the Bus:**

16. [REDACTED] had behavioral episodes when riding the bus to school. Video cameras on the bus captured these behaviors on September 22, 2021 (Video Exhibits 1 and 2), February 17, 2022, (Video Exhibit 3) and April 27, 2022 (Video Exhibit 5).

17. The bus ride from [REDACTED] home to school is very short. From the videos, it is approximately 10 minutes between the time the bus leaves [REDACTED] home and when the children deboard the bus at [REDACTED].

18. On September 22, 2021, [REDACTED] did not want to go to school and refused to board the bus when it arrived at [REDACTED] home. [REDACTED] can be seen on video expressing [REDACTED] displeasure with [REDACTED] mother. With [REDACTED] mother's encouragement, [REDACTED] does board the bus but in a highly agitated state. The bus began its journey to school. [REDACTED] level of agitation was such that the bus driver backed the bus up and discussed the situation with [REDACTED] mother.

19. [REDACTED] mother boarded the bus and instructed [REDACTED] to stay in [REDACTED] seat and remain quiet. The bus departed [REDACTED] home for the second time. [REDACTED] can be seen and heard yelling, flailing [REDACTED]

arms, and swinging an object at [REDACTED] peers while the bus aide attempts to calm [REDACTED].

20. At 7:27:40 on the video, while the bus is moving, [REDACTED] left [REDACTED] seat and attempted to enter the rear area of the bus where the bus's exit door is located. The bus aide at first attempts to block [REDACTED] path, but when that fails, she puts her arm around [REDACTED] and directs [REDACTED] back to [REDACTED] seat. [REDACTED] gives little to no resistance and returns to [REDACTED] seat.

21. The aide is observed implementing aspects of the BIP, i.e., time outs. She is also heard telling [REDACTED] that [REDACTED] is "gonna get written up when [REDACTED] gets to school." Someone also states, "it's write up time" and "your mama wouldn't take you back" and "I don't know what to do." None of these statements are contemplated by [REDACTED] BIP.

22. Petitioners failed to show, by a preponderance of the evidence, that the bus aide used a "physical holding restraint" on [REDACTED] as that term is defined in T.C.A. § 49-10-1304. Even if Petitioners had proven this procedural violation, they have failed to show, by a preponderance of the evidence that the procedural violation cause substantive harm to [REDACTED] or [REDACTED] parents.

23. On September 30, 2021, Ms. Hopp conducted another SST regarding the implementation of [REDACTED] BIP to improve the instructional effectiveness in de-escalation strategies for [REDACTED] WCS staff.

24. On February 17, 2022, [REDACTED] was agitated and does not want to board the bus. [REDACTED] is yelling at [REDACTED] mother when the school bus arrives at [REDACTED] home, and [REDACTED] refuses to board. [REDACTED] finally does board the bus but then leaves [REDACTED] seat and backpack and exits the bus. [REDACTED] returned to [REDACTED] mother and continued to yell at her. Ultimately, [REDACTED] mother asked the bus driver to hand her [REDACTED] backpack and she returns with [REDACTED] to the house. [REDACTED] mother transported [REDACTED] to school on February 17, 2022, and [REDACTED] had an extreme behavioral episode detailed below.

25. On April 27, 2022, [REDACTED] appears happy, says goodbye to [REDACTED] mother, readily boards the bus. [REDACTED] behavior during this bus ride is uneventful.

**Modification to [REDACTED] BIP:**

26. On July 30, 2021, Ms. Hopp began conducting a FBA for [REDACTED]. She completed the process and proposed changes to [REDACTED] BIP at an IEP team meeting on October 4, 2021. [REDACTED] parents and attorney Marjorie Bristol attended and participated in this meeting and agreed to any changes made to [REDACTED] IEP.

27. Due to the changes to [REDACTED] IEP and BIP, Ms. Hopp held another SST for WCS staff involved in [REDACTED] education.

28. On November 12, 2021, [REDACTED] IEP team met for the annual review of [REDACTED] IEP and to update [REDACTED] goals and progress in meeting [REDACTED] goals. Changes to [REDACTED] IEP were proposed. [REDACTED] parents and their attorney Marjorie Bristol attended and participated in this meeting.

29. [REDACTED] IEP team met again on November 16, 2021, at which time [REDACTED] IEP team approved the previously proposed IEP. [REDACTED] parents and their attorney Marjorie Bristol attended and participated in this meeting and agreed to the changes made to [REDACTED] IEP.

30. Due to a behavioral episode that resulted in [REDACTED] seclusion, [REDACTED] IEP team met on December 16, 2021. [REDACTED] parents and their attorney Marjorie Bristol attended and participated in this meeting and agreed to any changes made to [REDACTED] IEP.

31. Ms. Hopp held another SST session for [REDACTED] WCS staff concerning [REDACTED] BIP on January 12, 2022.

32. On February 28, 2022, [REDACTED] IEP team met again to discuss a behavioral episode that resulted in seclusion. [REDACTED] parents and their attorney Marjorie Bristol attended this meeting and agreed to any changes made to [REDACTED] IEP.

33. On March 31, 2022, the IEP team met to discuss [REDACTED] IEP goals and [REDACTED] progress towards them. [REDACTED] parents and their attorney Marjorie Bristol attended and participated in this meeting and agreed to any changes made to [REDACTED] IEP.

34. On April 21, 2022, [REDACTED] IEP team met because of a behavioral episode that resulted in [REDACTED] seclusion. [REDACTED] IEP team learned that [REDACTED] doctor had prescribed guanfacine to assist with [REDACTED] behaviors. The team updated [REDACTED] IEP accordingly. [REDACTED] parents and their attorney Marjorie Bristol attended and participated in this meeting and agreed to any changes made to [REDACTED] IEP.

**[REDACTED] Behavioral, Social, and Academic Progress:**

35. WCS trained [REDACTED] WCS staff to record [REDACTED] behaviors daily in fifteen-minute increments. While these data do not show [REDACTED] behaviors ended, they do not demonstrate a steady increase as alleged by Petitioners.

36. [REDACTED] behavioral episodes were typically very minor and brief. However, [REDACTED] had some episodes that were extreme and longer. Most of [REDACTED] behaviors are documented to have lasted between 30 seconds to one minute.

37. [REDACTED] had an extreme day on February 17, 2022. [REDACTED] mother took [REDACTED] off the bus and transported [REDACTED] to school as noted above. She took [REDACTED] to the office where [REDACTED] exhibited 15 episodes of aggression, three episodes of noncompliance, two episodes of elopement, 15 episodes of property destructions, one episode of major self-injurious behavior, and one episode of minor self-injurious behavior. Even though [REDACTED] behaviors were related to this one incident in the office, WCS staff recorded them as 37 distinct behaviors.

38. [REDACTED] had another extreme behavioral episode on April 25, 2022, when WCS reported a total of 11 isolations between approximately 9:15 a.m. and 11:30 a.m. even though they arose

from the same incident. These “isolations” do not meet the legal definition of “isolations” since [REDACTED] was never left in a space alone.

39. [REDACTED] missed a total of 2,000 minutes of [REDACTED] educational time during [REDACTED] [REDACTED] grade year because of [REDACTED] behaviors, isolations, and restraints.<sup>2</sup> As WCS points out, this represents only 2.85% of [REDACTED] total educational time for [REDACTED] [REDACTED] grade school year.<sup>3</sup>

40. [REDACTED] progressed socially during [REDACTED] [REDACTED] grade year. [REDACTED] went from little social interaction with [REDACTED] peers to sitting with [REDACTED] peers in class, conversing with [REDACTED] peers and WCS staff, and playing with peers during gym.

41. [REDACTED] [REDACTED] grade IEP goals and objectives were constantly updated to reflect [REDACTED] progress towards each goal. [REDACTED] IEP team met nine times during [REDACTED] [REDACTED] grade year. During these meetings, the IEP team reviewed data tracking [REDACTED] progress toward each goal. The IEP team added new goals or modified existing goals based on these data. As previously noted, [REDACTED] parents and their attorney Marjorie Bristol attended and participated in each of these meetings. [REDACTED] IEPs and data indicate that [REDACTED] made progress during [REDACTED] [REDACTED] grade year. [REDACTED] parents signed each of these IEPs in agreement.

42. Additionally, anecdotal evidence indicates [REDACTED] made academic and behavioral progress during [REDACTED] [REDACTED] grade year. [REDACTED] successfully began using a “task box” and folder system to manage [REDACTED] various school tasks. [REDACTED] began sending [REDACTED] parents text and email messages from [REDACTED] smart phone. [REDACTED] demonstrated more independence and a better tolerance to changes in [REDACTED] schedule.

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<sup>2</sup> Petitioners’ proposed final order, findings of fact number 16.

<sup>3</sup> WCS proposed final order at page 35.

43. ██████ began to complete more challenging work with less prompting from ██████ staff and fewer breaks. Staff observed that ██████ was more willing to discuss ██████ concerns instead of resorting to behavioral episodes.

44. Petitioners have failed to show, by a preponderance of the evidence, that ██████ failed “to make progress appropriate considering ██████ circumstances”<sup>4</sup> due to WCS’s failure to address ██████ behaviors.

**The Instant Due Process Complaint:**

45. On May 6, 2022, ██████ IEP team met to discuss, among other things, whether ██████ would attend ESY between ██████ and ██████ grade years. WCS proposed that ██████ continue to receive five hours per week of ABA services but that three of the hours be provided by a BCBA and two hours provided by a Registered Behavior Technician (RBT). WCS also proposed a reduction in BCBA consultation hours from three hours per week to one hour per week. ██████ parents and attorney Marjorie Bristol attended and participated in this meeting.

46. Petitioners claim that they were unaware of WCS proposed change in ABA services until the May 6, 2022, IEP team meeting. They further assert that they should have received PWN of the proposed changes. Further, that WCS’s failure to provide them PWN hindered their ability to participate in the IEP team meeting and ██████ educational planning.

47. On April 13, 2021, ██████ sent ██████ a text message stating, “And they legitimately want to cut back ██████ BCBA time.” On April 14, 2021, ██████ sent another text message to ██████ stating, “how are we even talking about reducing resources when the issues [behaviors] are increasing?” Again, on April 19, 2021, ██████ sent ██████ text messages including, “...it puts them on notice that it will be a fight...” ██████ intention was to state that WCS would be in for a fight if they attempted to reduce ██████ services.

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<sup>4</sup> Endrew F. vs. Douglas County Schools, 137 S.Ct. 988, 999 (2017).

48. WCS proposed change to [REDACTED] ABA services was not a “change [to [REDACTED]] identification, evaluation, or educational placement” requiring PWN.<sup>5</sup>

49. Petitioners have failed to show, by a preponderance of the evidence, that they did not have notice of the proposed changes to [REDACTED] ABA services prior to the May 6, 2021, IEP team meeting. Even if Petitioners had proven this procedural violation, they have failed to show, by a preponderance of the evidence that the procedural violation caused substantive harm to [REDACTED] or [REDACTED] parents.

50. [REDACTED] parents did not agree to WCS’s suggested changes to [REDACTED] IEP at the May 6, 2022, IEP team meeting. [REDACTED] parents chose not to have [REDACTED] attend ESY.

51. [REDACTED] and [REDACTED] parents filed a Due Process complaint under the IDEA on May 19, 2022, objecting to the proposed IEP changes at the May 6, 2022, IEP team meeting.

**Credibility of Expert Witnesses:**

52. Behavior Analyst determine the function of a client’s behavior by completing an FBA and/or a functional analysis (FA). An FBA is completed by observation of the client in the school setting. An FA is completed by controlling the client’s environment and staging various antecedents to trigger behaviors. Behavior Analyst use information from the FBA and/or the FA to determine the function of the client’s behavior. ABA recognized that there are four functions of behavior, i.e., escape from something, access to something, attention-seeking, and sensory related. Once the function of the client’s behavior is identified, a BIP can be developed to address the behaviors.

53. Ms. Hopp generally provided and/or supervised [REDACTED] ABA services during [REDACTED] grade year at [REDACTED]. She holds a Bachelor of Science in Psychology from Illinois State University and a Master of Science degree in Applied Behavior Analysis from

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<sup>5</sup> 34 C.F.R. § 300.503(a).

Auburn University. Ms. Hopp no longer works for WCS. She works at Vanderbilt University's Treatment and Research Institute for Autism Spectrum Disorders doing autism related research and student training.

54. Ms. Hopp completed [REDACTED] FBA and determined [REDACTED] function of behavior was access to [REDACTED] preferred task, i.e., computer time. Based on this determination, Ms. Hopp developed [REDACTED] BIP. Ms. Hopp trained [REDACTED] staff, including [REDACTED] transportation staff, on [REDACTED] BIP. She was responsible for ensuring [REDACTED] staff carried out [REDACTED] BIP with fidelity and modifying [REDACTED] BIP as needed. She saw [REDACTED] progress socially and academically during [REDACTED] [REDACTED] grade year. She also saw [REDACTED] behaviors decline.

55. Ms. Sarah Burke, BCBA works for WCS. She holds a Bachelor of Science in Psychology from the University of California San Diego and a Master of Education from Vanderbilt University with a concentration in Early Childhood Special Education. She holds a special education teacher license from the state of Tennessee. She has been a licensed and BCBA since 2014. She is an adjunct faculty member at Vanderbilt University where she mentors and supervises students completing their requirements to become BCBAs.

56. Ms. Burke provided [REDACTED] [REDACTED] ABA services after Ms. Hopp left WCS. She occasionally had another BCBA assist her, but generally she provided [REDACTED] [REDACTED] five hours of direct ABA service each week. In summary, she saw [REDACTED] progress academically, socially and with [REDACTED] behaviors. She found the BIP prepared by Ms. Hopp to appropriately meet [REDACTED] needs.

57. WCS called Dr. Laura Forkum, PhD, BCBA-D, as its retained expert witness. Dr. Forkum holds a Bachelor of Science from Lipscomb University in Psychology and a Master of Education in Special Education from the University of Louisville. She completed her BCBA certification coursework at the University of North Texas. She became a BCBA in 2007. She

completed her PhD in Exceptional Learning with a concentration in Applied Behavior Analysis in 2013 at the Tennessee Technological University.

58. WCS initially retained Dr. Forkum at the beginning of [REDACTED] [REDACTED] grade year as part of the parties' settlement agreement of [REDACTED] prior Due Process complaint. One term of the parties' settlement agreement was that WCS would hire an outside BCBA to observe WCS staff interactions with [REDACTED] monthly and report to WCS and Petitioners whether WCS was carrying out [REDACTED] BIP with fidelity. Dr. Forkum held this role during [REDACTED] [REDACTED] grade year and observed [REDACTED] and WCS staff monthly. After each observation, Dr. Forkum prepared a written report of her findings. WCS provided Petitioners a copy of each of Dr. Forkum's monthly reports.

59. Dr. Forkum also agreed with Ms. Hopp's determination that the function of [REDACTED] behavior was access. She believed [REDACTED] BIP was appropriate, and the staff carried it out with fidelity based on her observations.

60. Petitioners called Ms. Lori Wigginton, BCBA, as their retained expert witness. Ms. Wigginton holds a Bachelor of Science in Social Work from the University of Tennessee, Martin. She holds a Master of Science in Counseling from Freed-Hardeman University. She completed her BCBA certification preparation and course work at Southern Illinois University. She became a BCBA in 2010.

61. Ms. Wigginton met with [REDACTED] parents on August 16, 2022, to obtain [REDACTED] history and observed [REDACTED] in [REDACTED] home setting for approximately 45 minutes. She observed [REDACTED] in class on September 19, 2022. She reviewed various documents concerning [REDACTED] including [REDACTED] IEPs, FBA, BIP, and behavior data logs. Based on the foregoing, Ms. Wigginton opined that Ms. Hopp had wrongfully identified [REDACTED] function of behavior. Ms. Wigginton opined that [REDACTED] function of

behavior is escape, i.e., [REDACTED] behaviors are to escape tasks [REDACTED] does not want to do. Based on this determination, Ms. Wigginton opined that [REDACTED] BIP was inappropriate and ineffective.

62. All the called BCBA's are highly qualified academically and experientially. All the BCBA's called had access to [REDACTED] IEPs, FBAs, BIPs, isolation and restraint reports, and behavioral data sheets. Ms. Wigginton only observed [REDACTED] on one day in [REDACTED] school setting. She did not conduct either an FBA or an FA.

63. On the other hand, Ms. Hopp observed [REDACTED] to complete [REDACTED] FBAs and BIPs during [REDACTED] grade year. Ms. Hopp and Ms. Burke provided weekly direct BA services to [REDACTED] during [REDACTED] and [REDACTED] grade years. Unrelated to this case, Dr. Forkum observed [REDACTED] interactions with WCS staff during under the terms of the parties' prior settlement agreement to ensure [REDACTED] BIP was being implemented with fidelity by WCS staff.

64. Based on the foregoing factors, the determination that [REDACTED] function of behavior was access to [REDACTED] preferred tasks and the testimony of Ms. Hopp, Ms. Burke, and Dr. Forkum is more credible.

65. Petitioner failed to show, by a preponderance of the evidence, that [REDACTED] function of behavior was to escape undesirable task. Petitioners further failed to show, by a preponderance of the evidence, that [REDACTED] FBAs and BIPs were inappropriate and/or ineffective in controlling [REDACTED] behaviors.

**[REDACTED] ABA Service Needs:**

66. The goal of [REDACTED] ABA services is management of [REDACTED] behaviors so [REDACTED] can access [REDACTED] FAPE. A BCBA's goal is always to tritrate ABA services and ultimately discharge the client. A BCBA determines when to tritrate ABA services based on clinical presentation, assessment, data collected, etc. The type and amount of ABA services necessary to address [REDACTED] behaviors must me proven by expert proof. Due to their ongoing relationship with [REDACTED], WCS's experts

presented more credible testimony than Petitioners' expert. Additionally, WCS's experts' testimonies were consistent with [REDACTED] behavior data.

67. Petitioners failed to show, by a preponderance of the evidence, that [REDACTED] requires additional ABA services or WCS's proposed change in [REDACTED] ABA services at the May 6, 2022, IEP team meeting was inappropriate.

**Petitioners' ADA and § 504 Claims:**

68. Petitioner failed to prove, by a preponderance of the evidence, that WCS failed to provide [REDACTED] FAPE. If Petitioners had carried their burden, they must still show either "bad faith or gross misjudgment." Petitioners failed to present any such evidence.

69. Petitioners failed to show, by a preponderance of the evidence, that WCS discriminated against [REDACTED] in providing him FAPE in violation of either the ADA or § 504.

**CONCLUSIONS OF LAW**

1. The IDEA requires WCS to provide all students with disabilities who are in need of special education and related services a "FAPE" in the "least restrictive environment" (LRE). 20 U.S.C. § 1400, *et seq.*

2. WCS is required to identify students suspected of having a disability who are "in need of" special education and related services. 20 U.S.C. §1401 (3)(A). Students who are eligible for special education and related services are entitled to an IEP. Bd. of Educ. of the Hendrick Hudson School Dist. v. Rowley, 458 U.S. 176, 181 (1982).

3. In developing educational programs and determining appropriate services for students through an IEP, school districts must comply with the substantive and procedural requirements of the IDEA and related state law. Bd. of Educ. of the Hendrick Hudson School Dist. v. Rowley, 458 U.S. 176, 182 (1982).

4. A student's IEP must be developed by the student's IEP team and consist of the following:

- a. The parents of the child;
- b. Not less than one general education teacher of the child (if the child is or may be participating in the general education setting);
- c. Not less than one special education teacher of the child, or, where appropriate, not less than one special education provider of the child;
- d. A district representative who: i) is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities; ii) is knowledgeable about the general education curriculum; and iii) is knowledgeable about the availability of district resources.
- e. An individual who can interpret the instructional implications of evaluation results;
- f. Other individuals who have knowledge or special expertise about the child, including related services personnel as appropriate; and
- g. Whenever appropriate, the child with the disability. 34 C.F.R. § 300.321

5. The student's IEP must include (1) a statement of the child's present levels of educational performance; (2) a statement of measurable annual goals, (3) a statement of the special education and related services and supplementary aids and services to be provided to the child that, to the extent practicable, are based on peer-reviewed research, (4) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the nonacademic and extracurricular activities, (5) a statement of how the child's progress toward the annual goals will be measured, and (6) a statement of how the child's parents will be regularly informed of their child's progress. 20 U.S.C. §1414(d)(1)(A). These "are requirements by which the adequacy of an IEP is to be judged, although minor technical violations may be excused." Cleveland Heights-University Heights City Sch. Dist. v. Boss, 144 F.3d 391, 398 (6<sup>th</sup> Cir. 1998).

6. A student's IEP comports with the IDEA if it is "reasonably calculated to enable the child to receive educational benefits." Board of Educ. v. Rowley, 458 U.S. 176, at 207, 102 S.Ct. 3034, 3051 (1982).

7. For a district to substantively offer FAPE for a child not fully integrated into the general education setting, an IEP must be reasonably calculated to enable the child to make progress appropriate considering his circumstances. Endrew F. v. Douglas County Schools, 137 S.Ct. 988, 999 (2017). An IEP should be “constructed only after careful consideration of the child’s present levels of achievement, disability, and potential for growth.” *Id.* at 999. The student’s progress must be more than de minimis. *Id.* at 1000-1.

8. WCS is charged with providing █████ with “the educational equivalent of a serviceable Chevrolet,” but “is not required to provide a Cadillac.” Doe v. Tullahoma City Schools, 9 F.3d 455, 459-60 (6th Cir. 1993).

9. WCS is further charged with providing █████ a FAPE in the LRE, or what is commonly referred to as mainstreaming. Despite the preference for mainstreaming, a student may be segregated from the general education setting when: (1) the student would not benefit from regular education; (2) any regular-class benefits would be far outweighed by the benefits of special education; or (3) the student would be a disruptive force in the regular class. Roncker on Behalf of Roncker v. Walter, 700 F.2d 1058, 1063 (6th Cir. 1983).

10 The Sixth Circuit has described the LRE obligation under the IDEA as follows:

The Act does not require mainstreaming in every case but its requirement that mainstreaming be provided to the *maximum* extent appropriate indicates a very strong congressional preference. The proper inquiry is whether a proposed placement is appropriate under the Act. In some cases, a placement which may be considered better for academic reasons may not be appropriate because of the failure to provide for mainstreaming. The perception that a segregated institution is academically superior for a handicapped child may reflect no more than a basic disagreement with the mainstreaming concept. Such a disagreement is not, of course, any basis for not following the Act’s mandate. In a case where the segregated facility is considered superior, the court should determine whether the services which make that placement superior could be feasibly provided in a non-segregated setting. If they can, the placement in the segregated school would be inappropriate under the Act. Roncker on Behalf of Roncker v. Walter, 700 F.2d 1058, 1063 (6th Cir. 1983). (Internal citations omitted).

11. The IDEA does not afford relief for minor procedural violations alone. A determination of whether a student received FAPE must be based on substantive grounds. 34 C.F.R. § 300.513(1).

12. When a procedural violation is alleged, an administrative judge can only find a FAPE violation if a procedural violation; (1) impeded the child’s right to FAPE; (2) **significantly impeded** the parent’s opportunity to participate in the decision-making process regarding the provision of FAPE to the parent’s child; or (3) caused a deprivation of educational benefit.” 34 C.F.R. § 300.513(2) (Emphasis added).

13. Only procedural violations that result in substantive harm constitute a denial of FAPE and justify relief. Knable v. Bexley City Sch. Dist., 238 F.3d 755, 764 (6<sup>th</sup> Cir. 2001), Bd. of Educ. of Fayette County, Ky. v. L.M., 478 F.3d 307, 313 (6<sup>th</sup> Cir. 2007).

14. Administrative Judges with the Administrative Procedures Division, Tennessee Department of State are bestowed jurisdiction to determine whether a student received FAPE under the IDEA and related state law. T.C.A. § 49-10-606(a), State Board of Education Rules, Special Education Programs and Services, 0520-01-09-.18. The Administrative Judge also has jurisdiction to hear Petitioners’ claims under § 504 and the ADA. P.G., through his parents, A.G. and R.G. v. Genesis Learning Centers d/b/a Genesis Academy, 2019 WL 3231363 (M.D. Tenn.).

15. As the party “seeking relief,” Petitioners bear the burden of proof in this matter to show, by a preponderance of the evidence, that WCS violated the IDEA, ADA and/or § 504. Schaffer v. Weast, 546 U.S. 49, 51 (2005), Doe v. Sumner Cty. Bd. of Educ., 2020 WL 5797980, at \*2 (M.D. Tenn. Sept. 29, 2020).

16. As “the party challenging the IEP,” Petitioners must demonstrate, by a preponderance of the evidence, that the IEP devised by the school is inappropriate. L.H. v. Hamilton Cty. Dep’t of Educ., 900 F.3d 779, 790 (6<sup>th</sup> Cir. 2018).

17. WCS is required to give █████ parents prior written notice (PWN) when it either:
  - (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
  - (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. 34 C.F.R. § 300.503(a).
18. The IDEA and the Tennessee Special Education Behavior Supports Act (SEBSA) authorize the use of isolation and/or restraint when a student with a disability presents behaviors that create safety concerns for the student or others. 20 U.S.C.A. § 1415 (k)(1)(G), T.C.A. § 49-10-1304 (a).
19. SEBSA requires WCS to report to █████ parents if WCS personnel impose an isolation or a “physical holding restraint” on █████ on the same day it occurs. T.C.A. § 49-13-1301, *et seq.* WCS must also hold an IEP team meeting within 10 days of the isolation or restraint. T.C.A. § 49-10-1304 (d) and (e).
20. A “physical holding restraint” does not include, “physically redirecting a student if the student does not resist or if the resistance is of minimal intensity or duration” or “school personnel blocking a student’s exit or elopement by physically placing themselves in from of the student.” T.C.A. § 49-10-1304 (8) (d) and (e).
21. SEBSA defines an “isolation” as:
  - (A) Means the confinement of a student alone, with no other students, staff, or persons present, in a room with or without a door or other enclosed area or structure pursuant to § 49-10-1305(g) where the student is physically prevented from leaving because a door, object, or school personnel is blocking the student's exit; and
  - (B) Does not include time-out, a behavior management procedure in which the opportunity for positive reinforcement is withheld, contingent upon the demonstration of undesired behavior; provided, that time-out may involve the voluntary separation of a student receiving special education services from others; T.C.A. § 49-10-1303 (4) (A) and (B).

22. An “isolation” or “seclusion” “[d]oes not include time-out, a behavior management procedure in which the opportunity for positive reinforcement is withheld, contingent upon the demonstration of undesired behavior; provided, that time-out may involve the voluntary separation of a student receiving special education services from others.” T.C.A. § 49-10-1303(4)(B).

23. The ADA and the § 504 of the Rehabilitation Act are “roughly parallel” due to their similar language and the similarities in their purpose and scope. Babcock v. Michigan, 812 F.3d 531, 540 (6th Cir. 2016).

24. Both acts allow for school districts to be held legally responsible for excluding individuals, denying benefits, or discriminating against individuals because of their disability. Ghol v. Livonia Pub. Sch. Dist., 836 F.3d 672, 681 (6th Cir. 2016). WCS school staff could simultaneously violate the IDEA, the ADA, and § 504. IL through Taylor v. Knox County Bd. of Edu., 257 F. Supp. 3d 964, 954-955 (E.D. Tenn. 2017), R.K. ex rel. J.K. v. Bd. of Educ. of Scott Cnty., Ky., 637 Fed.Appx. 922, 924 (6th Cir. 2016). Thus, Section 504 and ADA claims are typically analyzed together. M.G. v. Williamson Cty. Sch., 720 F. App'x 280, 287 (6th Cir. 2018).

25. Title II of the ADA provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such entity.” 42 U.S.C. § 12132.

26. Section 504 of the Rehabilitation Act uses similar language and provides that a qualified disabled individual shall not, “solely by reason of her...disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or

activity receiving Federal financial assistance.” 29 U.S.C. § 794(a), Doe v. Sumner Cty. Bd. of Educ., 2020 WL 5797980, at \*2 n.3 (M.D. Tenn. Sept. 29, 2020).

27. Under Title II of the ADA, a plaintiff must show that: (1) plaintiff has a disability; (2) plaintiff is otherwise qualified; and (3) plaintiff was being excluded from participation in, denied the benefits of, or subjected to discrimination under [a public program] because of plaintiff’s disability. Anderson v. City of Blue Ash, 798 F.3d 338, 357 (6th Cir. 2015). A plaintiff must make the same showing to establish a case under § 504 in addition to showing the program receives federal funding. Hill v. Bradley Cnty. Bd. of Educ., 295 Fed. Appx. 740, 742 (6th Cir. 2008).

28. When Section 504 and the ADA are considered alongside the provisions of the IDEA, the “reasonable accommodation” requirement (as required to enable participation to a qualified individual pursuant to prong three) requires that a plaintiff prove that the school system “failed to supply him or her with a community-financed education which was sufficiently ‘appropriate’ to his or her personal learning requisites to enable his or her reasonable access to an education similar, relative to his or her individual academic potential and cognitive abilities, to that available to the average fellow student.” Campbell v. Bd. of Educ. of Centerline Sch. Dist., 58 Fed. Appx. 162, 166 (6th Cir. 2003), G.C. v. Owensboro Pub. Schs., 711 F.3d 623, 635 (6th Cir. 2013)

29. The Sixth Circuit reiterated this again in 2018 holding that “[t]o prove discrimination in the education context, a plaintiff must show ‘something more than a mere failure to provide the free appropriate education required by’ the IDEA” and “surmounting that evidentiary hurdle requires that either bad faith or gross misjudgment must be shown before a § 504 violation can be made out, at least in the context of education of handicapped children.” Crochran through Shields v. Columbus City Sch., 748 F. App’x 682, 687 (6th Cir. 2018).

## DISCUSSION

WCS held two IEP team meetings towards the end of [REDACTED] [REDACTED] grade year to prepare him for ESY and to smoothly transition [REDACTED] to [REDACTED] for [REDACTED] [REDACTED] grade year. During the summer between [REDACTED] [REDACTED] grade and [REDACTED] grade year, WCS agreed to provide [REDACTED] ABA services and to hire Dr. Forkum to ensure [REDACTED] BIP was implemented with fidelity. During [REDACTED] [REDACTED] grade year, [REDACTED] IEP team met on nine occasions to discuss current issues and to modify [REDACTED] IEP as needed. [REDACTED] highly educated parents attended and participated in each of these nine IEP team meetings. Petitioner's attorney, Marjorie Bristol, who specializes in education law, also attended and participated in each of these nine IEP team meetings. Everyone else required under the IDEA also attended and participated except a general education teacher whose attendance was waived by [REDACTED] and [REDACTED]

For each of the IEP team meetings held, WCS complied with all IDEA requirements of providing [REDACTED] parents notice, documentation relevant to the meeting, draft IEPs, etc. Each of [REDACTED] IEPs and amended IEPs complied with 20 U.S.C. §1414(d)(1)(A) and included: (1) a statement of the child's present levels of educational performance; (2) a statement of measurable annual goals, (3) a statement of the special education and related services and supplementary aids and services to be provided to the child that, to the extent practicable, are based on peer-reviewed research, (4) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the nonacademic and extracurricular activities, (5) a statement of how the child's progress toward the annual goals will be measured, and (6) a statement of how the child's parents will be regularly informed of their child's progress. In addition, [REDACTED] WCS staff constantly communicated information about [REDACTED] educational goals and progress via email and included weekly data sheets tracking [REDACTED] behaviors, SEBSA isolation and restraint reports, Dr. Forkum's observation reports, etc.

Petitioners allege WCS is guilty of two procedural violations and a substantive violation under the IDEA, which they also assert are violative of the ADA and § 504. To succeed on the procedural violations, Petitioners must show a procedural violation occurred. The first alleged procedural violation concerns [REDACTED] behaviors and the bus aide's response on September 22, 2021. The video recording speaks for itself. The bus aide attempted to block [REDACTED] path to the rear of the bus. When this failed, she used her arm to redirect [REDACTED] to [REDACTED] seat. [REDACTED] resistance to the aide's contact was of "minimal intensity or duration," and therefore, this was not a restraint pursuant to SEBSA. Since the conduct does not qualify as a restraint under SEBSA, WCS was not required to notify [REDACTED] parents or hold an IEP team meeting within 10 days.

Petitioners allege a second procedural violation concerning the May 6, 2021, IEP team meeting. They allege that WCS failed to provide them PWN of the proposed changes to [REDACTED] ABA services. However, 34 C.F.R. § 300.503(a) only requires WCS to provide PWN when it "proposes to ... change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child." The proposed modification of [REDACTED] ABA services by WCS simply does not fit into this requirement.

Even if Petitioners were successful in proving either of the foregoing procedural violations, they still must demonstrate that the procedural violation "(1) impeded the child's right to FAPE; (2) **significantly impeded** the parent's opportunity to participate in the decision-making process regarding the provision of FAPE to the parent's child; or (3) caused a deprivation of educational benefit." 34 C.F.R. § 300.513(2). There is no proof in the record indicating that the bus aide's redirecting [REDACTED] to [REDACTED] seat on September 22, 2021, falls into any of the foregoing categories. Petitioners' assertion that they were unaware of WCS proposed change to [REDACTED] ABA services at the May 6, 2022, IEP team meeting is not supported by the evidence. Text messages between [REDACTED] and [REDACTED] clearly indicate that they were aware of WCS's

position on █████ ABA services. Even if the text messages are discounted, the proof does not show that WCS's actions "significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of FAPE to the parent's child." This is particularly true given their attorney who specialized in education law attended the May 6, 2022, IEP team meeting.

Petitioners have failed to show, by a preponderance of the evidence, that either alleged procedural violation occurred, and if they had occurred, that Petitioners suffered substantive harm. Petitioner has failed on these issues.

Petitioners also allege that WCS's failure to adequately address █████ behaviors prohibited █████ from accessing a FAPE. In summary, Petitioners have shown that █████ missed 2,000 minutes of instructional time secondary to █████ behaviors. As WCS points out, this is 2.85% of █████ total instructional time. Petitioners offer no benchmark by which one can decipher whether missing 2.85% of instructional time is good or bad "considering [█████] circumstances" as the Supreme Court held in Endrew F. Ms. Wigginton's testimony, if accepted as correct, in essence is that WCS could have done better. This is tantamount to saying WCS could have provided █████ a Cadillac but only provided him a "serviceable Chevrolet" as the Sixth Circuit summed it up in Tulahoma City Schools. That is not the standard under the IDEA. WCS is only obligated to provide █████ an individualized education program "reasonably calculated to enable the child to make progress appropriate considering his circumstances." Endrew F. v. Douglas County Schools, 137 S.Ct. 988, 999 (2017). By all accounts, including █████ parents, █████ progressed during █████ █████ grade year academically, socially, and with █████ behaviors. Petitioners simply have failed to carry the burden of proof and show, by a preponderance of the evidence, that WCS failed to provide █████ an IEP that allowed █████ to progress during █████ █████ grade year.

Petitioners have further failed to show, by a preponderance of the evidence, that WCS's proposed change in [REDACTED] ABA services at [REDACTED] May 6, 2022, IEP team meeting would not provide [REDACTED] a FAPE or that additional ABA services are necessary to provide [REDACTED] a FAPE.

As noted previously, if Petitioners fail on their IDEA claim they necessarily fail on their ADA and § 504 claims. Even if they had been successful on their IDEA claim, they would still fail on their ADA and § 504 claims. To prove a violation of either the ADA or § 504, they must show WCS acted with either "bad faith or gross misjudgment." There is no evidence of either in the record.

Finally, Petitioners raised the issue of LRE during the hearing. [REDACTED] parents, presumably with the advice of their attorney, requested [REDACTED] be withdrawn from [REDACTED] general education instructions while in the [REDACTED] grade. They did not request [REDACTED] be returned to any general education instruction during [REDACTED] [REDACTED] grade year. They acknowledge general education instruction was not appropriate due to [REDACTED] behaviors. Given the foregoing, Petitioner must also fail on the issue of LRE assuming it was properly raised.

### CONCLUSION

Based on the foregoing, Petitioners have failed to meet their burden of proof and show, by a preponderance of the evidence, that WCS failed to provide [REDACTED] with a FAPE in [REDACTED] least restrictive environment pursuant to the IDEA or that WCS actions violated either the ADA or § 504. Petitioners have also failed to carry their burden of proof and show, by a preponderance of the evidence, that WCS procedurally violated T.C.A. § 49-10-1304 by restraining [REDACTED] during the September 22, 2021, bus incident. Finally, Petitioners have failed to carry their burden of proof and show, by a preponderance of the evidence, that WCS procedurally violated the IDEA by failing to provide PWN of proposed changes to [REDACTED] ABA services at the May 6, 2023, IEP

team meeting. It is difficult to imagine what else WCS could have done to ensure it provided  
FAPE. WCS is the prevailing party on all issues in this case.

It is so **ORDERED**.

This FINAL ORDER entered and effective this the **23rd day of June, 2023**.



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**STEVE R. DARNELL**  
**ADMINISTRATIVE JUDGE**  
**ADMINISTRATIVE PROCEDURES DIVISION**  
**OFFICE OF THE SECRETARY OF STATE**

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the  
**23rd day of June, 2023**.

█, THE STUDENT, AND █ AND █, THE  
 PARENTS V. WILLIAMSON COUNTY  
 SCHOOLS

**NOTICE OF APPEAL PROCEDURES**

**REVIEW OF FINAL ORDER**

The Administrative Judge's decision in your case in front of the **Tennessee Department of Education**, called a Final Order, was entered on **June 23, 2023**. If you disagree with this decision, you may take the following actions:

1. **File a Petition for Reconsideration:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration with the Administrative Procedures Division (APD). A Petition for Reconsideration should include your name and the above APD case number and should state the specific reasons why you think the decision is incorrect. APD must **receive** your written Petition no later than 15 days after entry of the Final Order, which is no later than **July 10, 2023**.

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied, you may file an appeal no later than **August 22, 2023**. *See* TENN. CODE ANN. §§ 4-5-317 and 4-5-322.

2. **File an Appeal:** You may file an appeal the decision in federal or state court within 60 days of the date of entry of the Final Order, which is no later than **August 22, 2023**, by:
  - (a) filing a Petition for Review "in the Chancery Court nearest to the place of residence of the person contesting the agency action or alternatively, at the person's discretion, in the chancery court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County," TENN. CODE ANN. § 4-5-322; or
  - (b) bringing a civil action in the United States District Court for the district in which the school system is located, 20 U.S.C. § 1415.

The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.

**STAY**

In addition to the above actions, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Final Order. A Petition for Stay must be **received** by APD within 7 days of the date of entry of the Final Order, which is no later than **June 30, 2023**. *See* TENN. CODE ANN. § 4-5-316. A reviewing court also may order a stay of the Final Order upon appropriate terms. *See* TENN. CODE ANN. §§ 4-5-322 and 4-5-317.

IN THE MATTER OF:

APD CASE No. 07.03-222053J

█, THE STUDENT, AND █ AND █, THE  
PARENTS V. WILLIAMSON COUNTY  
SCHOOLS

**NOTICE OF APPEAL PROCEDURES**

**FILING**

Documents should be filed with the Administrative Procedures Division by email *or* fax:

Email: [APD.Filings@tn.gov](mailto:APD.Filings@tn.gov)

Fax: 615-741-4472

In the event you do not have access to email or fax, you may mail or deliver documents to:

Secretary of State  
Administrative Procedures Division  
William R. Snodgrass Tower  
312 Rosa L. Parks Avenue, 8<sup>th</sup> Floor  
Nashville, TN 37243-1102