UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

R.N. By and Through her Parent, D.N., and Legal Guardian, K.N., Plaintiffs, v. NORTH GIBSON SCHOOL CORPORATION, GIBSON COUNTY SPECIAL SERVICES, BRIAN HARMON, Superintendent, in his Individual Capacity, ERIC GOGGINS, Assistant Superintendent, in his Individual Capacity, LISA BREWER, Director of Special Education, in her Individual Capacity, MARY WILLIAMS, Principal, in her Individual Capacity, BRYCE ABBEY, Assistant Principal, in his Individual Capacity, JUDITH GILL, Special Education Teacher, in her Individual Capacity, PATRICIA OLIVER, Special Education Paraprofessional (Aide), in her Individual Capacity, HOLLI NELSON, Special Education Paraprofessional (Aide), in her Individual Capacity, Defendants.	)	Case No. 3:18-CV-00187-RLY-MPB

ANSWER OF DEFENDANTS, LISA BREWER AND GIBSON COUNTY SPECIAL SERVICES, TO AMENDED COMPLAINT FOR DAMAGES

Come the Defendants, Lisa Brewer and Gibson County Special Services, and for their Answer to the Plaintiff, R.N., by and through Her Parents, D.N. and Legal Guardian, K.N.'s, Amended Complaint, hereby state as follows:

PARTIES

1. Plaintiff R.N. is a minor and the daughter of Plaintiff D.N. and the granddaughter of Plaintiff K.N. K.N is also the legal guardian of R.N. "Parents" shall refer to D.N. and K.N., individually or collectively.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 1 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

2. R.N. is seven (7) years old and has been diagnosed with disabilities, including Intermittent Explosive Disorder ("IED"), Disruptive Mood Dysregulation Disorder ("DMDD"), and an orthopedic impairment that does not necessarily hinder R.N.'s daily life. IED and DMDD are "disabilities" within the meaning of the Individuals with Disabilities Education Act ("IDEA"), 20 USC § 1402(3)(A) and 34 CFR §300.8. R.N. is a "qualified individual with a disability" within the meaning of § 504 of the Rehabilitation Act, 29 USC § 705(20), the Americans with Disabilities Act ("ADA"), 42 USC §12131(2) and 28 CFR § 35.104.

RESPONSE: As concerns the allegations made in Paragraph 2 of the Plaintiffs' Amended Complaint, no response is required to the allegations concerning whether Intermittent Explosive Disorder, Disruptive Mood Dysregulation Disorder, and orthopedic impairments are qualifying impairments under the Individuals with Disabilities Education Act ("IDEA"), 20 USC § 1402(3)(A), § 504 of the Rehabilitation Act, 29 USC § 705(20), and the Americans

with Disabilities Act ("ADA"), 42 USC § 1213(2) and 28 CFR § 35.104, as these allegations call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any legal liability and deny Plaintiffs' characterization of the law. As to all other allegations contained in Paragraph 2 of the Plaintiffs' Amended Complaint, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations at this time and, therefore, deny same.

3. At all relevant times, R.N. attended public schools operated by North Gibson School Corporation ("the District"). The District had knowledge of R.N.'s disability. R.N. began receiving special education services on November 21, 2016 through Princeton Community Primary School -North and South Sites "(the School").

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 3 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

4. The District represents the communities of Princeton, Hazelton, Mt. Olympus, Patoka, and Wheeling. The District is a public entity as defined by the ADA, (43 USC § 12131(1) and 28 CFR § 35.104). The District has the responsibility to provide R.N. with full and equal access to a free and appropriate public education in compliance with federal and Indiana laws and regulations, including those pertaining to the use of restraints and seclusions. The District is the governmental

body responsible for the operation of the District's schools, including the School and is responsible for the training and supervision of all of its faculty and staff. The District is located in and carries out its functions in the State of Indiana.

RESPONSE: As concerns the allegations made in Paragraph 4 of the Plaintiffs' Amended Complaint, no response is required to the allegations concerning whether the District is a public entity as defined by the ADA or the District's responsibilities under federal and Indiana laws and regulations, as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law. As to all other allegations contained in Paragraph 4 of the Plaintiffs' Amended Complaint, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations at this time and, therefore, deny same.

5. Defendant Brian Harmon ("Harmon") is, and at all times relevant, was employed by the District and holds the position of Superintendent.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 5 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

6. Defendant Dr. Eric Goggins ("Goggins") is, and at all times relevant, was employed by the District and holds the position of Assistant Superintendent.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 6 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

7. Harmon and Goggins are responsible for all matters relating to the day-to-day operations of the District and ensuring that District employees comply with federal and Indiana laws and are properly trained.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 7 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

8. Harmon and Goggins were responsible for overseeing the creation of the District's seclusion and restraint plan and ensuring that it was consistent with Indiana laws and federal laws and that it was followed by the District and its employees.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 8 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

9. Gibson County Special Services is a Joint Services Program established pursuant to Indiana Code 20-26-10.

RESPONSE: Admitted.

10. Pursuant to a "Joint Services Agreement for the Gibson County Special Services," Gibson County Special Services is responsible for the direct provision of special education and related services to students within its participating school corporations, including the District.

RESPONSE: Denied.

11. Defendant Lisa Brewer ("Brewer") is, and at all times relevant, was an employee of Gibson County Special Services as the Director of Special Education, is a Crisis Prevention Intervention ("CPI") trainer for the District, and is an Individual Education Programs ("IEP") team member for R.N.

RESPONSE: As to the allegations contained in Paragraph 11, the Defendant Lisa Brewer admits that she is a Director of Special Education, as that position is established in the Joint Services Agreement described in paragraph 10. She admits that she has attended some of the Individual Education Program ("IEP") team meetings regarding R.N. but denies that she is a regular member of R.N.'s IEP team. Defendant Brewer denies any other allegation made in paragraph 11.

12. Brewer is, and at all times relevant, was responsible for coordinating and supervising the existing program of special services and planning, promoting, implementing and refining the educational programs for disabled children in the District.

RESPONSE: Denied.

13. Brewer participated in the development of R.N.'s IEP and is responsible for ensuring compliance with all Indiana laws and federal laws governing education for children with disabilities and for ensuring that qualifying children with a disability receive an education in compliance with their IEPs under the IDEA and overseeing that the IEPs meet the requirements in the District's seclusion and restraint plan as well as Indiana laws and federal laws. Brewer is also responsible for the CPI training for the District's employees, which contains, but is not limited to, de-escalation techniques, redirection, and the proper and legal use of seclusion and restraint.

RESPONSE: As concerns the allegations made in Paragraph 13 of the Plaintiffs' Amended Complaint, it is unclear to what the term "IEP" is referring, as R.N.'s IEP has had different provisions at different times during enrollment at the District. As Defendant Brewer was not involved in the development of each and every iteration of R.N.'s IEP and it is unclear to which iteration these allegations refer, she denies the allegation that she participated in the development of R.N.'s IEP. These Defendants deny all other allegations contained in Paragraph 13.

14. Defendant Mary Williams ("Williams") is, and at all times relevant, was an employee of the District and is the Principal at the School, a school within the District.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in

Paragraph 14 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

15. Defendant Bryce Abbey ("Abbey") is, and at all times relevant, was an employee of the District and is the assistant principal at the School, a school within the District.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 15 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

16. Defendant Judith Gill ("Gill") is, and at all times relevant, was a special education teacher in the School and an IEP team member employed by the District.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 16 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

17. Defendant Patricia Oliver ("Oliver") is, and at all times relevant, was an Instructional Assistant in a self-contained special education classroom in the School employed by the District.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in

Paragraph 17 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

18. Defendant Holli Nelson ("Nelson") is, and at all times relevant, was a member of the staff in R.N.'s self-contained special education classroom in the School employed by the District.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 18 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

19. Williams, Abbey, and Gill participated in the development of R.N.'s IEP and were responsible for ensuring the special education staff followed the District's seclusion and restraint plan, ensuring the training of the special education staff at the School, ensuring that R.N.'s IEP met the Indiana laws and federal laws and was consistent with the District's seclusion and restraint plan, and ensuring that R.N. received educational services pursuant to and in compliance with her IEP.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 19 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

20. Gill, Oliver, and Nelson exercised direct and immediate control over R.N. and were directly responsible for monitoring and reporting R.N.'s behavior.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 20 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

21. Harmon, Goggins, Brewer, Williams, Abbey, Gill, Oliver and Nelson shall be referred to collectively as the "Individual Defendants." Upon information and belief, all of the Individual Defendants are residents of the state of Indiana. The Individual Defendants' actions alleged herein were taken under color of law and in the course and scope of their employment with the District or Gibson County Special Services, whichever the case may be. The Individual Defendants are also being sued in their individual capacities to the extent that their acts or omissions were criminal, clearly outside the course and scope of their employment, malicious, willful and wanton or calculated to benefit them personally

RESPONSE: No response to Paragraph 21 of the Plaintiffs Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants deny the allegations contained in Paragraph 21.

22. Harmon, Goggins, Brewer, Williams, Abbey, and Gill are liable for themselves and the conduct of the Individual Defendants named herein because: 1) their acts and omissions were carried out within the course and scope of their employment; 2) Harmon as Superintendent, Brewer as Director of Special

Education, Goggins as Assistant Superintendent, Williams as Principal of the School, Abbey as Assistant Principal of the School, and Gill as R.N.'s special education teacher, had final authority to make decisions affecting R.N.'s rights as alleged herein; 3) the acts and omissions of these individually named defendants were carried out pursuant to and consistent with a policy, custom or practice of the District and/or Gibson County Special Services, including a policy of inaction; 4) the District and Gibson County Special Services acted with deliberate and intentional indifference or disregard for the rights, safety and wellbeing of R.N.; and 5) the District and Gibson County Special Services ratified the conduct of each of the Individual Defendants named herein.

RESPONSE: Denied.

23. Plaintiffs are informed and believe and thereon allege that each Individual Defendant named in this Amended Complaint was at all times herein mentioned and now is the agent, servant and employee of the other Defendants herein, and was at all such times acting within the course and scope of said agency and employment and with the consent and permission of each of the other Defendants, and each of the Defendants herein ratified each of the acts of each of the other Defendants.

RESPONSE: As concerns the allegations made in Paragraph 23 of the Plaintiffs' Amended Complaint, no response is required to the allegations as they call for a legal conclusion which must be made by the Court. To the extent further

response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

JURISDICTION & VENUE

24. The Plaintiffs bring this action against the District, Gibson County Special Services, and the Individual Defendants in accordance with Indiana laws and federal law. Plaintiffs have served a tort notice, by letter, in accordance with IC § 34-13-3-8 through -10. Ninety (90) days have elapsed before commencing this cause of action. Plaintiffs served a tort notice, by letter, in accordance with IC §34-13-3.5. Fifteen (15) days have elapsed before commencing this cause of action.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 24 of the Plaintiffs' Amended Complaint, and, therefore, deny the same.

25. This action arises under the Fourth and Fourteenth Amendments to the United States Constitution, and other federal laws, including, but not limited to, the Americans with Disabilities Act, the Rehabilitation Act of 1973, and 42 U.S.C. § 1983, and accompanying federal regulations.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 25 of the Plaintiffs' Amended Complaint at this time and, therefore, deny same.

26. This Court has original jurisdiction of this matter pursuant to 28 U.S.C. §1331(federal question jurisdiction) and §1343 (federal civil rights

jurisdiction). This Court has supplemental jurisdiction pursuant to 28 U.S.C. §1367 to hear all related Indiana law claims.

RESPONSE: No response to Paragraph 26 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. Defendants admit jurisdiction is proper with this court, and to the extent further response may be deemed necessary, these Defendants deny the allegations contained in Paragraph 26.

27. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) because all parties reside in this judicial district.

RESPONSE: As concerns the allegations contained in Paragraph 27 of the Plaintiffs' Amended Complaint, Defendants admit venue is proper with this court, and to the extent further response may be deemed necessary, these Defendants deny.

28. Plaintiffs filed a due process claim under the IDEA on or about February 26, 2018. Plaintiffs settled their IDEA claims on or about July 30, 2018 but specifically reserved their right to pursue all other claims, including specifically, but not limited to, claims under the ADA and the Rehabilitation Act.

RESPONSE: Defendants admit that Plaintiffs filed a due process claim under the IDEA on or about February 26, 2018, and executed a settlement agreement with Gibson County Special Services and North Gibson School Corporation on or about July 30, 2018. That settlement agreement speaks for itself and Defendants deny any other allegations in paragraph 28.

29. Plaintiff satisfied their exhaustion requirements, and further administrative action would be unnecessary or futile because:

a.) Plaintiffs are seeking remedies that are not available under the IDEA, including damages for physical and emotional injuries.

b.) Exhaustion is not required for any claim sounding in a violation of civil rights disability discrimination or for claim asserted under the law.

c.) Exhaustion is not required for failure to provide a "free and appropriate public education" under § 504 of the Rehabilitation Act, as distinct from a "free and appropriate public education" under the IDEA.

d.) Exhaustion is not required when a District has adopted a policy or pursued a practice that is contrary to law.

e.) Plaintiffs have already worked through the administrative channels in the settlement of R.N.'s IDEA claim and the reservation of all other claims.

f.) Exhaustion in this case would otherwise be futile.

RESPONSE: Denied.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

R.N.'S DISABILITIES

30. R.N. was diagnosed with IED in January 2017, two weeks after she turned six (6) years old, and DMDD in or about April 2017. Because of her disabilities, R.N. is frustrated easily and has explosive outbursts. Because of her mental illness, mood disorder, and emotional issues, R.N. cannot control her temper and engages in certain behaviors which are directly related to her disability. R.N. is under the care of mental health professionals and has been prescribed various medications to manage her symptoms.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 30.

31. In January of 2016, D.N. informed the District's psychologist, John Holcomb ("Holcomb") that R.N. had behavioral issues in preschool and inquired as to what the District had to offer R.N. D.N. was told that R.N. would likely grow out of her conditions and was advised to place R.N. in a general education setting. D.N. enrolled R.N. in general education kindergarten at Princeton Community Primary School South for the 2016/2017 school year. After a few months, the District determined that "R.N. may demonstrate a suspected emotional disability which may affect her involvement and progress in the general education curriculum." Williams and Abbey suggested that R.N. undergo an evaluation to see if she qualified for special education and services. D.N. agreed, and the District subsequently performed an educational evaluation and a functional behavioral assessment ("FBA") on R.N.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 31.

32. On or about September 27, 2016, Williams informed D.N. that the District was setting up a behavioral plan for R.N. On or about November 9, 2016, before the educational evaluation and FBA were complete, the School informed D.N. that the only option the District could offer R.N. was Gill's self-contained

Emotionally Disabled ("ED") classroom at Princeton Community Primary School North. D.N. felt she had no other choice and agreed.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 32 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

33. On or about November 17, 2016 R.N.'s Individualized Education Plan ("IEP") team met. Williams, Abbey, Brewer, Gill, and others met with D.N., and D.N. was presented with only the option of enrolling R.N. in Gill's self-contained ED classroom. The School's IEP team moved too quickly along the continuum in making its consideration, skipping less restrictive options in its consideration. The IEP did not reflect sufficient consideration of less restrictive options than the self-contained ED classroom.

RESPONSE: Denied.

34. D.N. was told that Gill's self-contained ED classroom was the Least Restrictive Environment ("LRE") that for a child with R.N.'s behavioral issues. D.N. requested a one-on- one aide, but her request was denied.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 34 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

35. The IEP team concentrated solely on R.N.'s behavior and developed an IEP for R.N. that lacked education, educational goals, teaching methods, positive interventions, de-escalation, and redirection. The IEP violated federal laws, Indiana laws, and the District's own Seclusion and Restraint Plan.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 35 of the Plaintiffs' Amended Complaint concerning improper decision making by the IEP team, and to the extent these allegations concern the actions or omissions of other defendants, and therefore, deny the same. This Defendant Lisa Brewer personally denies that she made improper decisions as a member of R.N.'s IEP team. As concerns the allegations made in Paragraph 35 of the Plaintiffs' Amended Complaint concerning whether the IEP team's decisions violated state law, federal law, or district policy, no response is required to the allegations as they call for a legal conclusion which must be made by the Court To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

THE SECLUSION ROOM

36. R.N.'s IEP included "Time-Out" ("TO"). Abbey, Williams, and Gill explained to D.N. that R.N. would be put in TO for her behavior and would have to sit for a "timer to calm." They described TO as "time out one would use in the home."

In reality, TO was a "seclusion room." The seclusion room was a 3`x 5` unfurnished, unventilated, converted closet with padded walls, an exposed electrical outlet, no outside windows, a concrete floor covered in carpet, and a door with a window covered in plywood and padding. No one in the District nor Gibson County Special Services described to or showed D.N. or K.N. this closeted spaced in which R.N. would be held while someone held the door shut from the outside.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 36 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

37. Neither D.N. nor K.N. viewed the seclusion room until K.N. viewed the room during discovery for R.N.'s due process hearing, and no one in the District nor Gibson County Special Services described the seclusion room or offered to show the room to D.N or K.N. prior to the filing of R.N.'s due process complaint.

RESPONSE: Denied.

38. The District first began placing R.N. in the seclusion room when she was 5 years old, under three and a half feet tall, and weighed less than 50 pounds.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 38 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

39. R.N. was secluded approximately 106 times in the 117 days she was physically present in the self-contained ED classroom.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 39 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

40. Defendants blatantly disregarded Indiana law and the District's Seclusion and Restraint Plan that allows seclusion and/or restraint only when a student's behavior "poses imminent risk of injury to self or others and less restrictive interventions are ineffective."

RESPONSE: Denied.

41. Defendants blatantly disregarded Indiana law and the District's Seclusion and Restraint Plan that allow seclusion or restraint for only a "short period of time" and require to seclusion or restraint to be discontinued "as soon as the imminent risk of injury to self or others has dissipated.

RESPONSE: Denied.

42. R.N.'s IEP contained no action plan to be carried out by the staff for de-escalation for any type of situation and thus failed to comply with the District's Seclusion and Restraint plan and Indiana law.

RESPONSE: Denied.

43. R.N.'s IEP required R.N. to sit "quietly and calmly" for a timer before R.N. would be released from the seclusion room. R.N.'s IEP violated both the

District's Seclusion and Restraint Plan and Indiana law which provides, "Seclusion shall only be used as long as necessary and shall be discontinued when the student is no longer an imminent threat to others."

RESPONSE: As to the allegations contained in Paragraph 43, these Defendants state that R.N.'s IEP, the District's policies, and "Indiana law" speak for themselves. To the extent further response may be deemed necessary, these Defendants deny any liability for the allegations contained in Paragraph 43 of the Plaintiffs' Amended Complaint.

44. The use of the timer, which was improper in itself, was never implemented consistently. R.N. sat for the timer anywhere from 1-7 minutes and rarely not at all.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 44 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

45. R.N. was never debriefed after incidents of seclusion and/or restraint as required by both the District's Seclusion and Restraint Plan and Indiana law.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 45 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

46. In almost every instance when R.N. was secluded, Oliver and/or Gill provoked R.N., demanded compliance with a timer, escalated the circumstances, and/or caused the behavior that prompted the seclusion to continue longer than necessary.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 46 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

47. School employees left R.N. in the seclusion room for extended periods of time, multiple times a day on nearly a daily basis, and, on some occasions, for approximately 1-2 hours.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 47 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

48. Oliver and/or Gill required R.N. to sit for the timer to leave seclusion, used the timer more than once for R.N.'s release in a single seclusion, improperly restrained R.N. while in seclusion, required R.N. to perform school work in seclusion, and even restrained R.N. when she fell asleep in seclusion.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in

Paragraph 48 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

49. Gill and/or Oliver regularly used the seclusion room for punishment and other improper purposes, and regularly required R.N. to enter the seclusion room when she was not a threat to herself or others.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 49 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

50. Gill and/or Oliver also regularly required R.N. to remain in or return to the seclusion room when she was no longer a threat or herself or others.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 50 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

51. On or about November 30, 2016 at 8:38 a.m., R.N. walked into the seclusion room to calm down. District employees closed the door behind her and held it shut. R.N was confused and angered. The employee would not let R.N. out until she sat in the middle of the seclusion room for a timer. The District did not count this as official Seclusion Room incident and no restraint and seclusion sheet was filled out. R.N. was in the Seclusion Room until 9:23 a.m. for a total of forty-five (45) minutes.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 51 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

52. On or about April 17, 2017, R.N. was in the seclusion room 4 times and restrained 3 times.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 52 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

53. On or about April 21, 2017, Gill entered the seclusion room and forced R.N. to perform school work inside the room.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 53 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

54. On or about April 24, 2017 R.N. was put in the seclusion room at 10:54 a.m. and required to sit for the timer. At 11:04 a.m., after sitting for the timer, she was released but immediately put back into the seclusion room for "crawling" when she was told to walk. She was left in the seclusion room another twenty-four (24) minutes and forced to sit for another timer. The District counted this incident as one seclusion.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 54 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

55. On or about May 5, 2017, R.N. was put in the seclusion room at 10:04 a.m. At 10:28 a.m., she sat for a timer and was released only to go back in two (2) minutes later because she was "not ready." Gill and Oliver left R.N. in the room for another twenty (20) minutes and forced her to sit through another timer. The District only counted this incident as one seclusion.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 55 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

56. On or about August 23, 2017 at 12:31 p.m., R.N. was put in the seclusion room. At 12:53 p.m., staff opened the seclusion room door, and R.N. was calm. Staff then told her to sit for the timer. When R.N. refused, the staff member closed the door. At 12:55 p.m., staff again opened the door; R.N. was still calm but would not sit for the timer. The District employee reported, "she is saying it calmly just refusing to comply to rules." R.N. was let out at 1:13 p.m. On or about August 31, 2017, R.N. was put into the seclusion room (six) 6 times for a total of one hundred twenty-eight (128) minutes.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 56 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

57. In August 2017, RN was placed in the seclusion room 4 times and restrained 2 times in a single day.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 57 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

58. On or about September 7, 2017, R.N. was in the seclusion room for 1 hour and 50 minutes. Gill explained this away at an IEP meeting, telling K.N. and D.N. that not to worry because R.N. was in there "happy and singing."

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 58 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

59. On many occasions R.N. was in the seclusion room engaging in imaginative play, making up stories, hand puppets, singing, doing gymnastics, and playing in her own urine. Some of these incidents lasted for over an hour where she was no longer a threat of injury to herself or others, if she ever was in the first place.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 59 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

60. RN was left in the seclusion room on several occasions in soiled clothes from urinating herself, once for up to 26 minutes. In one instance in February 17, 2017 at 2:05 p.m., R.N. removed her clothes while in the seclusion room. Oliver opened the door and removed RN's clothing from the seclusion room, and R.N. yelled, "I want my clothes back!" Oliver told R.N. that she could have them back after she sat in the middle for the timer. Oliver responded that she had to be calm and have to sit in the middle of the seclusion room for a 3-minute timer first. R.N. couldn't hold it and urinated in her underwear. R.N. subsequently screamed that her bottom hurt from the urine against her skin, as she pulled her underwear down away from her skin. Oliver still refused to let her out unless she complied with her command to sit in the middle of the seclusion room for a 3-minute timer. The seclusion lasted for fifty-eight (58) minutes. For twenty-six (26) of those minutes, R.N. sat in her own urine.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 60 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

61. The District and the Individual Defendants' improper use of the seclusion room is a clear violation of District's Seclusion and Restraint Plan, Indiana law, and federal law.

RESPONSE: As concerns the allegations made in Paragraph 61 of the Plaintiffs' Amended Complaint, and its subparts, no response is required to the allegations as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

RESTRAINT

62. According to R.N.'s daily behavior reports, between November 21, 2016 and September 15, 2017, R.N. was restrained approximately thirty-three (33) times. The Defendants employed improper use of restraint, often endangering R.N. as result of the improper techniques. Many of the events leading to seclusion and restraint happened while R.N. was isolated from staff and students in the Quiet Area ("QA") with only Oliver present.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 62 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

63. On or about November 21, 2016, Oliver restrained R.N. while R.N. yelled, "Can you at least let me breathe?" Oliver's restraint of R.N. violated the

District's Seclusion and Restraint Plan, which provides "Seclusion or restraint shall never be used in a manner that restricts a child's breathing or harms the child."

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 63 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

64. R.N.'s School records indicate on or about February 28, 2017, at approximately 8:55 a.m., "RN no longer crying laying in middle of TO (seclusion) floor sleeping." At approximately 8:59, Gill "[p]ut [R.N.] into restraint, kicking, yelling shut up, asshole, screaming/growling, headbutting." At approximately 9:05 a.m., R.N. was "[l]et out of restraint." Gill stayed in the seclusion room with R.N. crying to point "she could not catch her breath." The School offered no justification for the use of the restraint of R.N. while she was sleeping in seclusion. Restraining R.N. while she was asleep was a clear provocation of R.N. and a clear violation of her IEP and the District's Seclusion and Restraint Plan.

RESPONSE: As to the allegations contained in Paragraph 64, these Defendants state that R.N.'s school records speak for themselves. To the extent further response may be deemed necessary, these Defendants deny any liability for the facts allegedly recorded in said records. In addition, as to all other allegations contained in Paragraph 64 of the Plaintiffs' Amended Complaint, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations at this time and, therefore, deny the same.

65. On or about September 13, 2016, while restrained, R.N. licked the District employee's arm repeatedly. R.N. could have only licked the employee's arm if that employee was improperly restraining R.N. near her throat.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 65 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

66. On or about September 7, 2017, Oliver restrained R.N. School records show that during this event, R.N. exclaimed, "I am sorry. Too tight." Again, in this instance, Oliver improperly restrained R.N.

RESPONSE: As to the allegations contained in Paragraph 66, these Defendants state that R.N.'s school records speak for themselves. To the extent further response may be deemed necessary, these Defendants deny any liability for the facts allegedly recorded in said records. In addition, as to all other allegations contained in Paragraph 66 of the Plaintiffs' Amended Complaint, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations at this time and, therefore, deny the same.

67. School records indicate that on or about April 21, 2017, R.N. was placed in restraint, and during the restraint, R.N. stated that "[s]he does not like it and wants to die so she does not have to live through this anymore."

RESPONSE: As to the allegations contained in Paragraph 67, these Defendants state that R.N.'s school records speak for themselves. To the extent

further response may be deemed necessary, these Defendants deny any liability concerning the facts allegedly recorded in said records.

QUIET AREA

68. R.N.'s IEP required the School to "provide a quiet area" when R.N. was "frustrated" to permit her time to calm down.

RESPONSE: As to the allegations contained in Paragraph 68, these Defendants state that R.N.'s IEP speaks for itself. To the extent further response may be deemed necessary, these Defendants deny any liability for the facts alleged in Paragraph 68 of the Plaintiffs' Amended Complaint.

69. The District and the Individual Defendants used R.N.'s Quiet Area ("QA"), which was an area partitioned off by white boards and encompassing the seclusion room door, to punish R.N. R.N. was carried and walked by the wrist to the QA for reasons such as refusing to work, yelling, stomping, hitting her desk, etc.

RESPONSE: To the extent "Individual Defendant" includes Brewer, Brewer specifically denies. As to any other allegation in paragraph 69, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 69 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

70. In the 2016/2017 and 2017/2018 school years, R.N. was physically present in the self-contained ED classroom One Hundred Seventeen (117) days. In those 117 days, R.N. was in the QA approximately Two Hundred Sixty-Eight (268) times, secluded from her peers.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 70 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

71. In the few times the QA was actually used in accordance with her IEP when R.N. was "frustrated," a timer was set for her. R.N.'s IEP did not allow for a timer in the QA.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 71 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

72. If R.N. did not return to the main classroom when the 5-minute timer went off (whether calm or not), she would lose minutes from, if not all of recesses and other "fun" time. If R.N. was moved to the QA for her behavior, she would lose minutes off or not "earn" her lunches with her peers, recesses, other "fun" times, specials (gym, art, music, library, music piano).

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 72 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

73. R.N. ate many lunches in the QA, sat in the QA while the other students watched movies that she could hear but not see, sat in the QA during

recesses while the other students had recess in the classroom where she could see through the spaces between the white boards, sat in the QA when the other students were having "Fun Friday" just feet away from her behind the dividers, and was made to do her school work in the QA. R.N. was placed in a different QA when her classmates went outside for recess; this QA encompassed windows where if R.N. looked out and saw the other students playing she would get in trouble.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 73 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

GIRL'S SELF-CONTAINED ED CLASSROOM-TIMEOUT/SECLUSION SEGREGATION FROM PEERS

74. In the twenty-five (25) days R.N. was physically present in the self-contained ED classroom (2017/2018 school year), R.N. spent at least 52% of her lunches secluded from her peers. The School schedule allows for a 30-minute lunch. On many occasions, R.N.'s lunch hour was substantially shorter than the lunch period provided to her peers. In fact, she received a 6-minute, 7-minute, and a 16-minute lunch period on different occasions, and, on at least one occasion, R.N. was in the seclusion room for almost her full lunch hour with no lunch reported.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 74 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

75. In May, 2017, Oliver threatened R.N. while she was eating alone in the classroom that if she didn't stop screaming, R.N. and Oliver would eat their lunches together in the seclusion room.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 75 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

OTHER DISCRIMINATION AND MISTREATMENT

76. R.N. was excluded from school trips, school related-outings, and school extras. During the week of May 8, 2017, the School informed the Parents that R.N. could not go on a field trip to Holiday World, hosted by Easter Seals for all disabled students. Specifically, Williams told D.N. that if R.N. had an outburst at the park, the entire group would have to leave the park and return to the bus. Williams told D.N. that she could keep R.N. home that day and she would be excused from school. Because the Parents knew that R.N. was very excited about the trip, K.N. offered to Williams that K.N. would drive to Holiday World and sit in the parking lot in case R.N. had an outburst. K.N. sat in the parking lot for several hours in almost 90-degree weather. K.N. and Gill stayed in touch via texts messages. R.N. exhibited no disruptive behavior that day. No other child's parent was required to sit in the Holiday World parking lot in case his or her child had a bad day.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in

Paragraph 76 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

77. On another occasion, R.N. was forbidden from attending a play at the local high school because she hadn't "earned" the right to attend.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 77 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

78. Upon information and belief, R.N. was forbidden from attending other School outings that her peers were allowed to attend.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 78 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

79. R.N.'s IEP required R.N. to be given special transportation to participate in the self-contained ED classroom. On many occasions in the 2017/2018 school year, R.N was denied these services due to Williams and Abbey's concerns that she may be violent on the Special Education Bus. R.N. was never an immediate danger to anyone when she was denied these services. R.N. always had positive reports from the bus driver during the 2017/2018 school year. There were never any grounds for denying these services other than the opinion of Abbey and Williams.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 79 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

80. R.N.'s IEP focused only on behavior. The IEP contained "Positive Reinforcements" for good behavior, but because of the Defendants' blatant disregard for the Indiana laws and for the District's Seclusion and Restraint Plan, R.N. could rarely attain the positive reinforcements rewards such as 'Points' and "dollars'. ED students earned "points," with one (1) point earned for each ten (10) periods in a day that a student's behavior is good. When R.N. went into the seclusion room, Oliver and Gill deducted two (2) points from R.N. for each period she remained in the seclusion room. In September 2017, R.N. was placed in the seclusion room; five minutes later, Oliver reported that the R.N. was calm was reportedly sang and played for 1 hour and 45 minutes before she was let out. This 1 hour and 50-minute seclusion was spread throughout a 4-period time frame. For three (3) of those periods, R.N. was calm in the seclusion room; yet, she lost six (6) points towards her positive behavior reward, "Fun Friday", which was the only time R.N. could spend any "dollars" she earned. The deduction of points was not consistent with R.N.'s IEP and constituted unwarranted punishment that other non-disabled students did not endure.

RESPONSE: As to the allegations contained in Paragraph 80, these Defendants state that R.N.'s IEP speaks for itself. To the extent further response

may be deemed necessary, these Defendants deny any liability for the contents of R.N.'s IEP. As to all other allegations contained in Paragraph 80 of the Plaintiffs' Amended Complaint, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations at this time and, therefore, deny the same.

81. The District scheduled and conducted R.N.'s IEP meetings. On several occasions, the District scheduled IEP meetings at times and in ways that deprived the Parents of a meaningful opportunity to participate.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 81 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

THE DISTRICT'S FAILURE TO DISCLOSE INFORMATION

82. After R.N. was removed from the School to homebound schooling, the Parents asked Goggins and Brewer why the School had not told them about the seclusion room and had instead told them it was timeout as typically used in a parent's home. Brewer and Goggins agreed that the Parents should have been told about the Seclusion Room.

RESPONSE: These Defendants deny the allegations contained in Paragraph 82 of the Plaintiffs' Amended Complaint.

83. Williams and Brewer had told the Parents after R.N. was removed from the School that R.N. hated to be touched at school and that it had always

triggered her. Depriving the Parents of this information prohibited them from meaningful participation in IEP meetings and addressing issues of seclusion and restraint. The District discriminated against R.N. by grabbing, carrying, and restraining her when they knew this increased her aggressiveness, which in turn almost always resulted in seclusion.

RESPONSE: Denied.

84. In or about November, 2017, the Parents requested all of R.N.'s records including her confidential student file. The District only supplied the Parents with a partial file, again denying the Parents meaningful participation in the IEP meetings to address the seclusions and restraints.

RESPONSE: As concerns the allegations made in Paragraph 84 of the Plaintiffs' Amended Complaint that R.N.'s parents were denied the ability to meaningfully participate in IEP meetings, no response is required by these Defendants, as these allegations call for a legal conclusion which must be made by the Court. As to all other allegations contained in Paragraph 84 of the Plaintiffs' Amended Complaint, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations at this time and, therefore, deny the same.

85. The Parents were given inaccurate information in the April 2017 IEP meeting. Gill misrepresented R.N.'s "timeouts" (seclusions) total as forty-one (41) between 11/21/2016 and 4/25/2017. The number Gill provided was a gross

distortion; the actual total was well over 50% more--at least sixty-five (65) seclusions.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 85 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

86. At the September 2017 and the October 2017 IEP meetings, the Parents inquired as to why R.N. was being forced to eat alone in the ED classroom. Williams told the Parents R.N.'s perception of eating alone a lot was not reality. Gill told the Parents that R.N. rarely was forced to eat alone. Again, the information provided to the Parents was a gross misrepresentation. In reality, R.N. was present in the ED classroom twenty-five (25) days in the 2017/2018 school year and missed thirteen (13) lunches. Approximately 52% of R.N.'s lunches were in the classroom away from her peers.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 86 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

THE DISTRICT'S SECLUSIONS AND RESTRAINT PLAN

87. The District had a formal plan regarding use of seclusions and restraints, authored by Goggins. The District's seclusion and restraint plan lacked

the minimum requirements under Indiana law which contributed to the denial of R.N.'s unconstitutional rights.

RESPONSE: As to the allegations contained in Paragraph 87 of the Plaintiffs' Amended Complaint, the formal plan regarding use of seclusions and restraints speaks for itself. To the extent further response may be deemed necessary, these Defendants deny any legal liability and deny Plaintiffs' characterization of the law.

88. Although the District had an established plan in place to protect students, the District delegated to Gill the authority to make policy decisions concerning the use of seclusions and restraints on R.N. by the creation of her IEP that went far beyond the scope of the law.

RESPONSE: As to the allegations contained in Paragraph 88 of the Plaintiffs' Amended Complaint, R.N.'s IEP speaks for itself. To the extent further response may be deemed necessary, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations at this time and, therefore, deny the same.

89. The District's Seclusion and Restraint Plan establishes that Gill's decisions were subject to review, by Brewer, Williams and Abbey during the creation of R.N.'s IEP.

RESPONSE: As to the allegations contained in Paragraph 89 of the Plaintiffs' Amended Complaint, the District's Seclusion and Restraint Plan speaks for itself. To the extent further response may be deemed necessary, Defendant Lisa

Brewer denies that she personally reviewed R.N.'s IEP for all of the time periods addressed in the Plaintiffs' Amended Complaint.

90. The District and Gibson County Special Services ratified Gill's decisions. K.N spoke to Goggins in November 2017 about her concerns of the seclusion and restraint of R.N. Goggins dismissed K.N.'s concerns, stating that he had already talked to Williams before K.N. got there and Williams assured him that everything was within the scope of the District's Seclusion and Restraint Plan and within the scope of the law. By dismissing K.N.'s concerns, Goggins who is an authorized policymaker, approved Brewer, Williams, Abbey and Gill's decision and the basis for it, thus ratifying their decision and making as final.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 90 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

91. The District and Gibson County Special Services knew of and permitted Gill's use of the seclusion room and restraints over time—it was not a one-time event.

RESPONSE: These Defendants deny the allegations as it relates to them and state they lack sufficient knowledge or information to form a belief as to the truthfulness of the other allegations contained in Paragraph 91 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

92. In an October 4, 2017 meeting regarding the Behavioral Reports, Williams acknowledged monitoring the Behavioral Reports.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 92 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

93. Brewer was present at all of R.N.'s IEP meetings where TO was discussed. Williams, and sometimes Abbey, also attended the meetings.

RESPONSE: These Defendants deny the allegations contained in Paragraph 93 of the Plaintiffs' Amended Complaint.

94. Williams and Abbey witnessed Gill's unlawful use of seclusion and restraint of R.N. and had an obligation to protect R.N. and report it but elected not to take action, thus causing repeated constitutional violations against R.N. The District and Gibson County Special Services officials with policymaking authority had knowledge of Gill's usage of the seclusion room and restraint, and ratified her conduct.

RESPONSE: These Defendants deny the allegations as it relates to them, and lack sufficient knowledge or information to form a belief as to the truthfulness of the other allegations contained in Paragraph 94 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

95. The District and Gibson County Special Services policymakers were aware of Gill's unconstitutional use of the seclusion room and restraints to the

extent that her use constituted "custom" of which the District and Gibson County Special Services was aware and took no action to curb.

RESPONSE: These Defendants deny the allegations as it relates to them, and these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the other allegations contained in Paragraph 95 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

96. Improper restraint techniques were employed. Williams, Abbey, Gill, Oliver and Nelson were responsible for monitoring the restraints and reporting any violations of improper use immediately. The Defendants' actions or inactions constitute neglect, physical and psychological abuse and shock the conscience. The Defendants failed to act in a reasonable manner.

RESPONSE: As concerns the allegations contained in Paragraph 96 of the Plaintiffs' Amended Complaint, these Defendants state that they lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations that improper restraint techniques were employed and who was responsible for monitoring the restraints and reporting any violations of improper use, and therefore, deny the same. These Defendants deny all other allegations contained in Paragraph 96 of the Plaintiffs' Amended Complaint.

97. The School treated R.N.'s disabilities as a disciplinary matter and punished her for becoming upset, exacerbating R.N.'s frustration or physical aggressiveness. There was no conflict de-escalation, positive reinforcement, or

redirecting attempts reported or shown in R.N.'s behavior reports as required by 513 IAC 1-2-3.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 97 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

98. The School failed to provide R.N. proper academic instruction. In an October 4, 2017 meeting, Williams told K.N. that until the School could get RN's behavior under control, no academics could take place.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 98 of the Plaintiffs' Amended Complaint at this time and, therefore, deny the same.

GENERAL ALLEGATIONS

99. Upon information and belief, over a period covering August 2016 through September 2017, the Defendants neglected R.N. and subjected her to various forms of physical, mental discriminatory abuse, either by acts and/or omissions.

RESPONSE: As concerns the allegations contained in Paragraph 99 of the Plaintiffs' Amended Complaint, these Defendants state that they lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations that other defendants neglected R.N. and subjected her to various forms of physical,

mental discriminatory abuse, either by acts or omissions, and therefore, deny the same. These Defendants deny they personally neglected R.N. or subjected her to various forms of physical, mental discriminatory abuse, either by acts or omissions.

100. Upon information and belief, Defendants established a pattern of discrimination against a person with disabilities through egregious forms of mistreatment and abuse.

RESPONSE: As concerns the allegations contained in Paragraph 100 of the Plaintiffs' Amended Complaint, these Defendants state that they lacks sufficient knowledge or information to form a belief as to the truthfulness of the allegations that other defendants established a pattern of discrimination against a person with disabilities through egregious forms of mistreatment and abuse, and therefore, deny the same. These Defendants deny they personally established a pattern of discrimination against a person with disabilities through egregious forms of mistreatment and abuse.

101. Instead of taking reasonable measures to address R.N.'s behavior using appropriate scientifically proven interventions such as redirection, de-escalation and positive reinforcement, Defendants took out their frustration and anger on R.N, making her condition worse.

RESPONSE: As concerns the allegations contained in Paragraph 101 of the Plaintiffs' Amended Complaint, these Defendants state that they lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations concerning the behavior of other defendants, and, therefore, deny the same. These

Defendants personally deny the allegations contained in Paragraph 101 of the Plaintiffs' Amended Complaint.

102. Rather than using generally accepted interventions and proper restraint protocols, Defendants preformed various cruel, gratuitous and sadistic acts of mistreatment, psychological and physical abuse of R.N., including neglect, seclusion, isolation, and provocation.

RESPONSE: As concerns the allegations contained in Paragraph 102 of the Plaintiffs' Amended Complaint, these Defendants state that they lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations concerning the behavior of other defendants, and, therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 102 of the Plaintiffs' Amended Complaint.

103. The Defendants used the terms "time out" and "seclusion" interchangeably despite the fact that the two terms are separately defined under Indiana law. The Parents were not told about the "seclusion room" and, instead, the Defendants described the room as, "timeout with a timer to calm." The District and Gibson County Special Services were well aware of the School's ongoing practice of placing R.N., a young disabled student, in a 3`x5` unfurnished, unventilated, converted closet with padded walls, an exposed electrical outlet, no outside windows, a concrete floor covered in carpet, a door with its window covered in plywood and padding, with someone continuously holding the door shut while R.N. was inside. Harmon, Goggins, and Brewer, ratified Williams and Abbey's use,

allowing it to become policy for R.N. Williams and Abbey ratified Gill, Oliver and Nelson's use, allowing it to become policy for R.N. The District and Gibson County Special Services permitted these seclusions that did not follow Indiana law or the District's Seclusion and Restraint plan, to be used approximately 106 times on R.N. in the 117 days R.N. was present in the ED classroom, which amounted to a "custom" of authorizing constitutional violations.

RESPONSE: As to the allegations contained in Paragraph 103, these Defendants state that they lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations that other defendants improperly used the terms "time out" and "seclusion" and improperly described R.N.'s seclusion to her parents, and therefore, denies same. These Defendants deny that they personally improperly used the terms "time out" and "seclusion" and improperly described R.N.'s seclusion to her parents. These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations concerning the exact physical description of the room in question and its use, and therefore, deny the same. These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations others "ratified" use of the room in question or allowed its use to become a "custom," and therefore, deny the same. These Defendants deny that they personally "ratified" anyone's use of the room in question or allowed its use to become a "custom." As to the allegations contained in Paragraph 103 of the Plaintiffs' Amended Complaint concerning whether the legal definitions of the terms "time out" and "seclusion" and whether use of seclusions

with R.N. were in accordance with Indiana or federal law, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

104. The fact that the Parents agreed to the use of time-outs and restraint interventions in R.N.'s IEP to manage R.N.'s problem behaviors did not excuse the District's over-reliance on those techniques, where the behavior interventions were excessive and inappropriate. The interventions that the School applied were not reasonably calculated to manage R.N.'s behavioral problems.

RESPONSE: As concerns the allegations contained in Paragraph 104 of the Plaintiffs' Amended Complaint, these Defendants state that they lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations concerning the behavior of other defendants, and, therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 104 of the Plaintiffs' Amended Complaint.

105. The Defendants dealt with R.N.'s behavior in a variety of indifferent and cruel ways, including using excessive and unnecessary force, physical restraint, threats, and seclusion. Plaintiffs believe that R.N.'s mental illness and behavioral frustration the Individual Defendants who worked with her, which lead them to commit numerous horrendous violations of her dignity and basic human rights. The District had the obligation under Indiana law and the District's Seclusion and Restraint Plan to de-brief each staff member involved in the seclusion of restraint of

R.N. to establish that the seclusion and/or restraints were done properly and the staff members were emotionally able to return to the classroom i.e.; not angry with the student or frustrated with the student. The Defendants failed and refused to use the required de-briefing methods.

RESPONSE: As to the allegations contained in Paragraph 105 of the Plaintiffs' Amended Complaint, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations that other defendants dealt with R.N.'s behavior in an inappropriate manner or violated R.N.'s rights or dignity or that they failed to do any required de-brief, and therefore, deny the same. These Defendants deny that they personally dealt with R.N.'s behavior in an inappropriate manner or violated R.N.'s rights or dignity or that they failed to do any required de-brief. As to the allegations contained in Paragraph 105 of the Plaintiffs' Amended Complaint concerning any defendant's obligations under Indiana law or the District's Seclusion and Restraint Plan, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

106. R.N. was forced to sit in the middle of the seclusion room for a timer to "earn" her way out of the seclusion room, violating I.C. 20-20-40-13, the District's own policy, Indiana law, as well as R.N.'s constitutional rights.

RESPONSE: As to the allegations contained in Paragraph 106 of the Plaintiffs' Amended Complaint, these Defendants lack sufficient knowledge or

information to form a belief as to the truthfulness of the allegations that any defendant forced R.N. to sit in the middle of the seclusion room for a timer, and therefore, deny the same. These Defendants deny that they personally forced R.N. to sit in the middle of the seclusion room for a timer. As to the allegations contained in Paragraph 106 of the Plaintiffs' Amended Complaint that any defendant violated Indiana law, District policy, or federal law, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law and policies in question.

107. The Defendants violated the seclusion and restraint policies, which clearly restrict the use of seclusion or restraint to short periods of time and state that seclusion and/or restraint shall be discontinued as soon as the imminent risk of injury to self or others has passed.

RESPONSE: As to the allegations contained in Paragraph 107 of the Plaintiffs' Amended Complaint, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations that other defendants violated a seclusion or restraint policy, and therefore, deny the same. These Defendants deny that they personally violated a seclusion or restraint policy. As to the allegations contained in Paragraph 107 of the Plaintiffs' Amended Complaint concerning the content of the seclusion or restraint policies, these Defendants state that these policies speak for themselves. To the extent further

response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the applicable policies and law.

108. Williams acknowledged that carrying R.N., grabbing her wrist and pulling her, picking her up and putting her in her chair and the use of physical restraint were triggering the symptoms of R.N's disabilities and heightening the behavior. Nondisabled students were not subjected to the same treatment as R.N. Defendants did not treat students without disabilities the same way they treated R.N. The Defendants' policy or practice for R.N. does not apply to students without disabilities.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 108 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

109. The District and Gibson County Special Services established a practice and policy of improperly restraining and secluding R.N. without consideration to any harmful consequences to R.N.

RESPONSE: Denied.

110. Defendants' actions were not reasonable and were not taken in good faith.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 110 of the Plaintiffs' Amended Complaint as far as those allegations concern the behavior of other defendants, and therefore, deny the same. These

Defendants personally deny the allegations contained in Paragraph 110 of the Plaintiffs' Amended Complaint.

111. Because of the District, Gibson County Special Services, and the Individual Defendants' actions, R.N. has displayed severe emotional and disturbing physical reactions when in close proximity to the School or any Individual Defendant involved in the seclusion and restraint incidents. Further, R.N. has frequent nightmares about being secluded and restrained by Defendants, screaming, "Let me out!" and "Let me go!" R.N. wet her bed frequently after the seclusion and restraint campaigns were employed at the School and also urinates on her bedroom floor at night because of her fear of the small size of the restroom at home and the anxiety that someone might shut the door and hold her inside. R.N. is experiencing and has experienced sleepwalking and shows signs of post-traumatic stress disorder. R.N. remains in therapy to help her cope with the conditions she endured at the School.

RESPONSE: Denied.

COUNT I
VIOLATION OF SECTION 504 OF THE REHABILITATION ACT

112. Plaintiffs incorporate by reference their prior allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 112 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be

deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

113. This claim is brought against the District pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq. ("Section 504") and its implementing regulations, 34 C.F.R. § 104 et seq.

RESPONSE: No response to Paragraph 113 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants deny the allegations contained in Paragraph 113.

114. R.N.'s medical condition substantially limits one or more major life activities, and she is an "individual with a disability" as defined by 29 U.S.C. § 705.

RESPONSE: As to the allegations contained in Paragraph 114 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

115. The District receives federal financial assistance.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 115 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

116. The District operates a "program or activity" as defined by 29 U.S.C. § 794(b); namely, provision of educational services.

RESPONSE: As to the allegations contained in Paragraph 116 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

117. R.N. is entitled to participate, along with nondisabled students, in nonacademic and extracurricular activities (e.g., lunch, recess, recreational activities) and services to the maximum extent appropriate to her needs.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 117 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

118. The District discriminated against R.N. because of her disability in violation of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 et seq.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 118 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

119. Specifically, the District allowed the improper seclusion and restraint of R.N., deprived her of the opportunity to attend school and participate in its programs or activities, and subjected her to a hostile educational environment.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 119 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

120. The District knowingly and intentionally excluded R.N. from participation in, denied her the benefits of, or otherwise subjected her to discrimination under a program or activity which receives Federal financial assistance in violation of 34 C.F.R. § 104(a).

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained *in* Paragraph 120 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

121. By denying R.N. equal access to educational programs or activities by numerous acts of restraint, seclusion, isolation, denial of participation and creating a hostile educational environment, the District discriminated against R.N. because of her disability.

RESPONSE: As to the allegations contained in Paragraph 121 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

122. Non-disabled persons receive the benefits or services for which R.N. is otherwise qualified, but R.N., solely because of her disability, was excluded from,

denied participation in or denied the benefits of attending school by the District or was otherwise subjected to discrimination by the District.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of die allegations contained in Paragraph 122 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

123. The District denied R.N. a free appropriate public education to R.N. and otherwise violated the regulations implementing Section 504 of the Rehabilitation Act.

RESPONSE: As to the allegations contained in Paragraph 123 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

124. The District intentionally or with deliberate indifference failed to provide meaningful access and/or reasonable accommodation to R.N.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 124 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

COUNT II
VIOLATION OF AMERICANS WITH DISABILITIES ACT

125. Plaintiffs incorporate their prior allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 125 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain

any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

126. This claim is brought against the District pursuant to Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132 and its implementing regulations, 28 C.F.R. Part 35.

RESPONSE: No response to Paragraph 126 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants deny the allegations contained in Paragraph 126.

127. The District is a "public entity" as defined by 42 U.S.C. § 12131(1).

RESPONSE: As to the allegations contained in Paragraph 127 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

128. R.N. is a "qualified individual with a disability" as defined by 42 U.S.C. § 12131(2).

RESPONSE: As to the allegations contained in Paragraph 128 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further

response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

129. Because of R.N.'s disability, the District intentionally mistreated her and excluded her from participation in and denied her the benefits of the services, programs or activities of a public entity.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 129 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

130. Because of her disability, the District intentionally subjected R.N. to discrimination, ultimately forcing her to stop attending school and receive homebound instruction.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 130 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

131. The District's actions violate Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12132 et seq. ("ADA").

RESPONSE: As to the allegations contained in Paragraph 131 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

COUNT III
42 U.S.C. § 1983 – FOURTEENTH AMENDMENT
SUBSTANTIVE DUE PROCESS

132. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 133 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

133. This claim is brought against the Individual Defendants pursuant to 42 U.S.C. § 1983.

RESPONSE: No response to Paragraph 133 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants deny the allegations contained in Paragraph 133.

134. R.N. has a fundamental liberty interest in her freedom of movement, bodily integrity and human dignity which is protected by the Fourteenth Amendment to the United States Constitution, and has the right to be free of unreasonable social isolation, physical discomfort, fear, humiliation and physical confinement or restraint.

RESPONSE: As to the allegations contained in Paragraph 134 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

135. At all relevant times, the Individual Defendants acted under color of Indiana law.

RESPONSE: As to the allegations contained in Paragraph 135 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

136. The Individual Defendants' repeated and intentional acts of inappropriate seclusion, isolation, and restraint and cruel mistreatment of R.N. deprived her of her liberty interests and shock the conscience.

RESPONSE: As concerns the allegations in Paragraph 136 of the Plaintiffs Amended Complaint, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations concerning the acts or omissions of other defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 136 of the Plaintiffs' Amended Complaint.

137. Gill, Oliver, and Nelson participated directly in depriving R.N. of her due process rights.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 137 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

138. Harmon, Goggins, Brewer, Williams, and Abbey either participated directly in the alleged constitutional violations, had actual knowledge thereof and failed to intervene, created a policy or custom under which the unconstitutional practices occurred, and/or allowed the continuance of such violations.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 138 of the Plaintiffs' Amended Complaint to the extent these allegations concern the behavior of other defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 138.

139. Harmon, Goggins, Brewer, Williams, and Abbey were grossly negligent in supervising Gill, Oliver, and Nelson and/or exhibited deliberate indifference to R.N.'s rights by failing to act in the face of knowledge that unconstitutional acts were occurring.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 139 of the Plaintiffs' Amended Complaint to the extent these allegations

concern the behavior of other defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 139.

140. Harmon, Goggins, Williams, Abbey, and Brewer either directed the conduct of Gill, Oliver and Nelson or, in the alternative, Gill, Oliver and Nelson acted with the knowledge or consent of Harmon, Goggins, Williams, Abbey, and Brewer, who condoned or acquiesced in Gill, Oliver and Nelson's unconstitutional treatment of R.N.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 140 of the Plaintiffs' Amended Complaint to the extent these allegations concern the behavior of other Defendants, and therefore, denies same. These Defendants personally deny the allegations contained in Paragraph 140.

141. Defendants Williams and Abbey personally restrained R.N. on one or more occasions and personally made the decision to deprive R.N. of participation in activities, personally reviewed R.N.'s behavior reports, seclusion and restraint forms, monitored R.N.'s classroom, and attended case conferences when the committee discussed Gill, Oliver, and Nelson's seclusion and restraint of R.N.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 141 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

142. The Individual Defendants violated R.N.'s clearly established constitutional and/or statutory rights of which they should reasonably have known.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 142 of the Plaintiffs' Amended Complaint to the extent these allegations concern the behavior of other Defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 142.

COUNT IV
42 U.S.C. § 1983 – FOURTEENTH AMENDMENT
SUBSTANTIVE DUE PROCESS

143. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 143 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

144. The District and Gibson County Special Services adopted—and—implemented—an express policy of inappropriately restraining and secluding R.N., isolating R.N. from her peers, sending her home from school early, not allowing her to ride the special education school bus, forcing her to do schoolwork alone at a group table, isolating her in the quiet area, making her eat lunches away from her peers in the classroom, keeping her in from recesses, and not allowing her to attend school outings.

RESPONSE: Denied.

145. In the alternative of an express policy, the District and Gibson County Special Services had a practice of inappropriately restraining and secluding R.N., isolating R.N. from her peers, and denying her participation in activities.

RESPONSE: Denied.

146. The Defendants used seclusion and restraints to punish R.N. as opposed to using it to protect her, other students, or school staff from physical injury.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 146 of the Plaintiffs' Amended Complaint to the extent these allegations concern the behavior of other defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 146.

147. The practice of the District and Gibson County Special Services was so well-settled that it amounts to a policy which is unconstitutional. As a result of the District's and Gibson County Special Services' unconstitutional practice, R.N.'s clearly established constitutional rights were violated.

RESPONSE: Denied.

COUNT V
42 U.S.C. § 1983 – EQUAL PROTECTION

148. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 148 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain

any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

149. The Individual Defendants intentionally discriminated against R.N. because of her disability.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 149 of the Plaintiffs' Amended Complaint to the extent these allegations concern the behavior of other Defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 149.

150. Pursuant to policy or practice, the District and Gibson County Special Services subjected R.N. to multiple instances of discrimination (primarily in the form of seclusion and restraint) because of her disability.

RESPONSE: Denied.

151. Nondisabled students were not subjected to the same treatment as R.N. The Individual Defendants did not treat students without disabilities the same way they treated R.N., and the District's and Gibson County Special Services' policy or practice does not apply to students without disabilities.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 151 of the Plaintiffs' Amended Complaint to the extent these allegations

concern die behavior of other Defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 151.

152. Defendants, acting under color of Indiana law, deprived R.N. of equal protection under the law and discriminated against her because of her disability. Defendants' actions violated the equal protection clause of the Fourteenth Amendment.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 152 of the Plaintiffs' Amended Complaint to the extent these allegations concern the behavior of other Defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 152.

COUNT VI
42 U.S.C. § 1983 - UNREASONABLE SEIZURE

153. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 153 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

154. The Fourth Amendment to the United States Constitution guarantees R.N. the right to attend public school without being subjected to unjustified

intrusions on her personal security or unreasonable force and seizure of her person. These are clearly established rights of which a reasonable person is aware.

RESPONSE: As to the allegations contained in Paragraph 154 of the Plaintiffs' Amended Complaint concerning the guarantees of the Fourth Amendment to the United States Constitution, its application to this case, and whether the guarantees enumerated are clearly established rights, no response to these allegations is required as they call for legal conclusions which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

155. Williams, Abbey, Gill, Oliver and Nelson unlawfully restrained R.N.'s freedom of movement or deprived her of her liberty without her consent.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 155 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

156. Williams, Abbey, Gill, Oliver and Nelson's acts of physically restraining R.N., restricting her freedom of movement and confining her to the seclusion when doing so was not reasonably necessary to prevent physical harm to R.N. and constitutes false imprisonment under Indiana law.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 156 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

157. Williams, Abbey, Gill, Oliver and Nelson used unjustified and unreasonable force in dealing with R.N., a minor with a disability. In doing so, they violated the Fourth Amendment's prohibition against unreasonable seizures.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 157 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

158. Williams, Abby, Gill, Oliver and Nelson, acting under the color of law, violated R.N.'s Fourth Amendment rights by restraining and secluding her in circumstances and under conditions that were a violation of state, federal and constitutional law, as well as the District's Seclusion and Restraint Plan. The seizures were excessive and extreme in light of R.N.'s age and disability and carried out with a malicious intent and/or a reckless disregard for R.N.'s rights, safety and well-being.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 158 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

159. R.N. was left in seclusion for extended periods of time. Given her age and disability, it was reasonably foreseeable that R.N. would sustain physical and emotional injuries in such circumstances.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 159 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

160. The Individual Defendants knew that Williams, Abbey, Gill, Oliver and Nelson were not following their CPI training, and knew that the aversive interventions were being carried out in violation of state and federal law and in violation of R.N.'s constitutional and statutory rights. Yet, these Individual Defendants took no action. This failure to act constitutes a deliberate or callous indifference to R.N.'s rights, safety and well-being and results from a policy, custom or practice, which served to ratify the wrongful conduct.

RESPONSE: As to the allegations contained in Paragraph 160 of the Plaintiffs' Amended Complaint concerning the other defendants' knowledge of the actions or omissions of Williams, Abbey, Gill, Oliver, and Nelson and those defendants' personal actions or omissions concerning that knowledge, these Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of these allegations, and therefore, deny the same. These Defendants deny personal knowledge of the actions or omissions of Williams, Abbey, Gill, Oliver, and Nelson and deny that they failed to act concerning any such alleged knowledge. As to the allegations contained in Paragraph 160 of the Plaintiffs' Amended Complaint concerning the legal significance of any defendant's, including these Defendants', failure to act on said alleged knowledge, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

161. As a direct and proximate result of these violations, R.N. has suffered harm and continues to suffer damages.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 161 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

COUNT VII
42 U.S.C. § 1983 - UNREASONABLE SEIZURE

162. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 162 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

163. The District and Gibson County Special Services adopted—and—implemented—an express policy of physically restraining R.N. and placing her in the seclusion room when doing so was not reasonably necessary to prevent physical harm.

RESPONSE: Denied.

164. In the alternative, the District's and Gibson County Special Services' practice of physically restraining R.N. or placing her in the seclusion room when doing so was not reasonably necessary to prevent physical harm was so well-settled that it amounted to a policy which is unconstitutional.

RESPONSE: Denied.

165. As a result of the District's and Gibson County Special Services' practice, R.N.'s clearly established constitutional right to be free from unreasonable seizure was violated.

RESPONSE: Denied.

166. As a direct and proximate result of the Defendants' actions, R.N. sustained and continues to sustain damages.

RESPONSE: Denied.

COUNT VIII
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

167. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 167 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

168. Oliver left R.N., a little girl, bare-chested in a 3x5 padded room with urine-soaked underwear for twenty-six (26) minutes as R.N. screamed that the urine burned her bottom. During the entire incident, a camera monitor displayed R.N.'s bare body and the incident to the remaining students in the E.D. classroom.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 168 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

169. Oliver's actions shock the conscience of any reasonable person.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 169 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

170. Williams, Abbey, Gill, Oliver, and Nelson otherwise restrained, secluded, and mistreated R.N. in cruel, tortuous ways.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 170 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

171. The Defendants' conduct was extreme and outrageous and goes beyond the bounds of decency in a civilized community.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 171 of the Plaintiffs' Amended Complaint to the extent these allegations concern the behavior of other Defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 171.

172. Brewer and Goggins, and thus the District and Gibson County Special Services, knew of the outrageous behavior and ratified it.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 172 of the Plaintiffs' Amended Complaint to the extent these allegations concern the knowledge and behavior of other defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 172.

173. As a direct and proximate result of the conduct, R.N. has suffered and continues to suffer severe emotional distress and mental anguish.

RESPONSE: Denied.

COUNT IX – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

174. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 174 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

175. Defendants acted in a wanton, outrageous, and careless manner that was indifferent to the rights of R.N.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 175 of the Plaintiffs' Amended Complaint to the extent these allegations

concern the behavior of other defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 175.

176. As a result, R.N. has suffered and continues to suffer severe emotional trauma and distress.

RESPONSE: Denied.

COUNT X
BATTERY

177. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 177 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

178. Williams, Abbey, Gill, Oliver, and Nelson made harmful and/or offensive contact with R.N. and acted with the intent to bring about the harmful and/or offensive conduct.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 178 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

179. Harmon, Goggins, Brewer, the District, and Gibson County Special Services were at all times responsible for ensuring that any person employing an

aversive intervention on R.N. followed the CPI training and the District's Seclusion and Restrain plan.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 179 of the Plaintiffs' Amended Complaint to the extent these allegations concern the responsibilities of other defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 179.

180. At all times, the Defendants knew that Williams, Abbey, Gill, Oliver and Nelson were not following their CPI training or the District's Seclusion and Restraint plan. Yet, Defendants took no action to protect R.N.'s rights, safety and well-being and, through their inaction, condoned and ratified such wrongful conduct.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 180 of the Plaintiffs' Amended Complaint to the extent these allegations concern the knowledge or behavior of other defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 180.

181. As a direct and proximate result of Defendants' actions, R.N. has suffered and continues to suffer damages.

RESPONSE: Denied.

COUNT XI
ASSAULT

182. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 182 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

183. Williams, Abbey, Gill, Oliver, and Nelson committed acts that were designed and intended to cause R.N. to fear or apprehend immediate harmful and/or offensive contact.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 183 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

184. Williams, Abbey, Gill, Oliver and Nelson intended to create in R.N. an immediate fear or apprehension of harmful or offensive conduct, and R.N. felt such fear and apprehension.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 184 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

185. The District, Gibson County Special Services, Harmon, Goggins, and Brewer were at all times responsible for ensuring that any person employing an

aversive intervention on R.N. followed their CPI training and the District's Seclusion and Restraint plan. At all times, Defendants knew that Williams, Abbey, Gill, Oliver and Nelson were not following their CPI training and the District's Seclusion and Restraint Plan. Yet, Defendants took no action to protect R.N.'s rights, safety and well-being and through their inaction, condoned and ratified such wrongful conduct.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 185 of the Plaintiffs' Amended Complaint to the extent these allegations concern the knowledge or behavior of other Defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 185.

186. As a direct and proximate result of Defendants' conduct, R.N has suffered and continues to suffer damages.

RESPONSE: Denied.

COUNT XII
NEGLIGENCE

187. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 187 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be

deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

188. The Defendants had a duty to protect R.N. from foreseeable danger and refrain from punishing her for disability-related behavior.

RESPONSE: As to the allegations contained in Paragraph 188 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

189. Further, the District, Gibson County Special Services, Harmon, Goggins, Brewer, Williams, and Abbey had a duty to ensure School employees were properly trained and complying with Indiana law and the District's seclusion and restraint plan.

RESPONSE: As to the allegations contained in Paragraph 189 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

190. In addition, the nature of the relationship between the Defendants and R.N. as well as R.N.'s disability, gave rise to a parens patriae relationship, which imposed on Defendants a heightened duty of care.

RESPONSE: As to the allegations contained in Paragraph 190 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

191. The Defendants negligently or with gross indifference breached their duties by their acts and omissions alleged herein.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 191 of the Plaintiffs' Amended Complaint to the extent these allegations concern the behavior of other Defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 191.

192. The District and Gibson County Special Services are vicariously liability for the Individual Defendants' negligent acts.

RESPONSE: As to the allegations contained in Paragraph 192 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

193. As a direct and proximate result of the Defendants' conduct, R.N. has suffered and continues to suffer severe emotional distress and mental anguish.

RESPONSE: Denied.

COUNT XIII
FALSE IMPRISONMENT

194. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 194 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

195. Defendants Williams, Abbey, Gill, Oliver, and Nelson unlawfully restrained R.N.'s freedom and locomotion and deprived her of liberty without her consent and without legal process.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 195 of the Plaintiffs' Amended Complaint, and therefore, deny the same.

196. The District, Gibson County Special Services, Harmon, Goggins, and Brewer were at all times responsible for ensuring that any person employing an aversive intervention on R.N. followed their CPI training and the District's Seclusion and Restraint Plan. At all times, Defendants knew that Williams, Abbey, Gill, Oliver and Nelson were not following their CPI training and the District's Seclusion and Restraint Plan. Yet, Defendants took no action to protect R.N.'s rights, safety and well-being and through their inaction, condoned and ratified such wrongful conduct.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 196 of the Plaintiffs' Amended Complaint to the extent these allegations concern the knowledge or behavior of other Defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 196.

197. As a direct and proximate result of Defendants' conduct, R.N has suffered and continues to suffer the injuries and losses.

RESPONSE: Denied.

COUNT XIV
MONELL CLAIM

198. Plaintiffs incorporate their previous allegations as if fully set forth herein.

RESPONSE: No response to Paragraph 198 of the Plaintiffs' Amended Complaint is required from these Defendants, as this paragraph does not contain any allegations against any defendant. To the extent further response may be deemed necessary, these Defendants reiterate and reincorporate their responses to all prior allegations.

199. The District had a formal plan regarding use of seclusions and restraints, authored by Goggins. The District's Seclusion and Restraint Plan lacked the minimum requirements under Indiana law which contributed to the denial of R.N.'s unconstitutional rights.

RESPONSE: As to the allegations contained in Paragraph 199 of the Plaintiffs' Amended Complaint, no response to these allegations is required as they call for a legal conclusion which must be made by the Court. To the extent further response may be deemed necessary, these Defendants deny any liability and deny Plaintiffs' characterization of the law.

200. Brewer, as Director of Special Education for Gibson County Special Services, had a duty to plan, implement, and refine the educational programs for disabled children in the District and supervise the program of special services. These duties included the implementation and oversight of the District's Seclusion and Restraint Plan.

RESPONSE: Denied.

201. Although the District had an established plan in place, the District and Gibson County Special Services delegated to Brewer, Williams, Abbey, Gill, Oliver, and Nelson the authority to make policy decisions concerning the use of seclusions and restraints on R.N. that went far beyond the scope of the law.

RESPONSE: Denied.

202. The District and Gibson County Special Services officials failed to supervise Brewer, Williams, Abbey, Gill, Oliver, and Nelson by delegating to them the authority to make policy regarding the use of seclusion and restraint on R.N. in the self-contained ED classroom.

RESPONSE: Denied.

203. Neither the District nor Gibson County Special Services enforced the District's Seclusion and Restraint Plan or the District's approved CPI training and, by not doing so, the District and Gibson County Special Services delegated final policymaking authority to Brewer, Williams, Abbey, Gill, Oliver and Nelson regarding use of the seclusion room and restraint.

RESPONSE: Denied.

204. The District and Gibson County Special Services knew of the inappropriate and improper restraint and seclusion of R.N. and ratified the inappropriate and improper conduct of the Individual Defendants.

RESPONSE: Denied.

205. The practice of physically restraining R.N. or placing her in the seclusion room when doing so was not reasonably necessary to prevent physical harm was so well-settled that it became a custom of the District and Gibson County Special Services of which the District and Gibson County Special Services were aware.

RESPONSE: Denied.

206. The District and Gibson County Special Services knew that R.N. was being harmed as result and took no action to intervene or stop the inappropriate conduct.

RESPONSE: These Defendants lack sufficient knowledge or information to form a belief as to the truthfulness of the allegations contained in Paragraph 206 of the Plaintiffs' Amended Complaint to the extent these allegations

concern the knowledge or behavior of other Defendants, and therefore, deny the same. These Defendants personally deny the allegations contained in Paragraph 206.

207. Defendants acted with malicious intent or with a callous indifference to R.N.'s rights, safety and well-being.

RESPONSE: Denied.

208. As a direct and proximate result of this conduct, R.N. has suffered and continues to suffer the injuries and losses.

RESPONSE: Denied.

WHEREFORE, Defendants, Gibson County Special Services and Lisa Brewer request that plaintiffs take nothing by way of their claims, that their prayer for relief be denied, and all other just and proper relief.

ADDITIONAL DEFENSES

1. As the amended complaint refers to "Plaintiffs," any cause of action being asserted by any plaintiff other than R.N. is barred, in whole or in part, to the extent it falls outside the applicable statutes of limitation.

2. Defendants are entitled to qualified immunity.

3. None of the activities engaged in by Defendants, if any, was done with malice, and therefore, Defendants plead good faith immunity as a bar in whole or in part to the Plaintiffs' Amended Complaint.

4. Plaintiffs have failed to exhaust the available administrative remedies as required by the applicable state and federal laws.

5. Defendants are entitled to all applicable immunities enumerated in Ind. Code 34-13-3-3, including but not limited to performance of discretionary function; the adoption and enforcement or failure to adopt or enforce a policy; the act or omission of anyone other than these Defendants; failure to make an inspection or making an inadequate or negligent inspection of property other than the property of these Defendants; unintentional misrepresentation; and injury to a student and/or her property by an employee acting reasonably under a discipline policy or restraint or seclusion plan.

6. Defendants' liability is limited to the limitations set forth in Ind. Code 34-13-3-4.

7. Plaintiffs cannot recover punitive damages pursuant to Ind. Code 34-13-3-4 and federal law.

8. Plaintiffs' claims against Defendant Brewer are barred by Ind. Code 34-13-3-5(c).

9. Plaintiffs' claims are barred by contributory negligence and/or incurred risk and/or because their losses, if any, were caused by the acts or omissions of persons or entities other than these Defendants.

10. Defendants deny any allegation made against them based on any theory of vicarious or imputed liability.

11. Plaintiffs failed to mitigate their damages.

12. To the extent Plaintiffs' Amended Complaint makes claims or Plaintiffs seek in this case damages which were made or could have been recovered

through the due process request referenced in paragraph 28 of the Amended Complaint, those claims and requests for damages are barred by the doctrine of release.

13. Plaintiffs' claims are barred by the doctrines of waiver, estoppel, and laches, as may be shown by evidence.

14. Plaintiffs' claims are barred because plaintiffs did not suffer a constitutional deprivation as a result of a policy, custom, practice or usage or a decision by a final policymaker sufficient to invoke governmental entity liability.

15. Plaintiffs' state law claims are barred to extent they failed to give Defendants required notice of their claims pursuant to Ind. Code 34-13-3 and 34-13-3.5.

16. Plaintiffs' claims are barred by the doctrines of qualified immunity set forth in *Cantrell v. Morris*, 849 N.E.2d 488 (Ind. 2006).

17. Defendants assert the affirmative defenses of any and all immunity defenses including, but not necessarily limited to, absolute immunity, sovereign immunity, governmental immunity, official immunity, quasi-official immunity, qualified immunity, quasi-judicial immunity, quasi-legislative and limited immunity provided them under the federal constitution, the state constitution, federal or state statutes, and/or federal or state common law as a complete bar to the claims made against Defendants.

18. To the extent any allegations in Plaintiffs' Amended Complaint are not addressed above, they are denied, and Defendants further deny any liability and all allegations on which any liability would be based.

Because neither investigation of the allegations in the Plaintiffs' Amended Complaint nor discovery is complete, Defendants may have defenses which are not presently known and therefore reserve all rights pursuant to Rule 15 of the Federal Rules of Civil Procedure to subsequently amend this pleading to clarify and/or to add any other defenses (affirmative or otherwise) pertinent to this case.

WHEREFORE, the Defendants, Gibson County Special Services and Lisa Brewer, demand judgment that the Amended Complaint of the Plaintiffs, R.N., By and Through Her Parent, D.N. and Legal Guardian, K.N., be dismissed as against these Defendants and that the Plaintiffs recover nothing thereby; further, this Defendants demands judgment for their costs herein expended, and any and all other proper relief to which she may be entitled.

Respectfully submitted,

/s/ Alexander P. Pinegar
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