

# SIEGEL & AGINS, L.P.A.

A LEGAL PROFESSIONAL ASSOCIATION

NESSA G. SIEGEL  
KERRY M. AGINS  
ANDREA M. VALENTINO

June 6, 2011

Via Facsimile and Federal Express, Next Day Delivery

Wendy Stoica, Asst. Dir. Procedural Safeguards  
Ohio Department of Education  
Office for Exceptional Children  
25 S. Front Street, Mail Stop 202  
Columbus, OH 43215

Complaint filing pursuant to authority given to states under 34 C.F.R. §§ 300.151-300.153.

Primary Contact and  
Complainant information:

"Parents of Student A"  
"Student A"

"Parents of Student B"  
"Student B"

Additional Complainants  
contact information:

"Parents of Student C"  
"Student C"

"Parent of Student D"  
"Student D"

"Parents of Student E"  
"Student E"

"Parent of Student F"  
"Student F"

"Parents of Student G"  
"Student G"

"Complainant H"

"Parents of Students I, K, M, N" "Parents of Students J & L"

"Student I"

"Student J"

"Student K"

"Student L"

"Student M"

"Student N"

"Complainant O"

"Complainant O"

School District of Residence: Upper Arlington City Schools  
1950 North Mallway Drive  
Upper Arlington, OH 43221

(Phone) 614-487-5000  
(Fax) 614-487-5012

This complaint is being submitted on behalf of the above-identified residents ("Complainants") of the Upper Arlington City School District ("District" or "Upper Arlington"). Complainants are parents of children in the District diagnosed with Dyslexia, or, prior students with disabilities that have either left the District to attend schooling elsewhere or graduated from Upper Arlington High School. The allegations that follow are supported by attached affidavits from many of the Complainants and are incorporated herein as if restated. When read as a whole, their powerful, almost identical, statements clearly evidence the District's systemic failures.

#### Introduction and Statement of Allegations:

**Upper Arlington City School District: (A) fails to meet the Response to Intervention ("RTI") requirements for evaluating and identifying students suspected of having Specific Learning Disabilities, (B) uses the intervention process to delay evaluations and the identification of students with Specific Learning Disabilities; and, thereby, (C) fails to meet its Child Find obligations.**

The District has implemented a policy establishing a pattern of "interventions"<sup>1</sup> offered to students exhibiting basic academic difficulties. The system places students who underperform in Reading, Writing and/or Mathematics into a revolving door of instruction, with a variety of different learning targets. Instead of initiating a systematic, scientifically-based process of assessing a child's needs, progress, and outcomes, parents are simply asked to provide permission to have their child placed into "intervention." Typically, minimal to no records of student performance within the "intervention" are maintained or shared with the parents. Complainants allege that on average, their children were kept in "intervention" for three (3) years before being evaluated. Evaluations were only performed if initiated by parents, and typically, only after parents retained private evaluations or

<sup>1</sup> The use of the term "interventions" is borrowed from the District's vernacular. In communications to parents, the District will use the broad term "intervention" to include a variety of differing types of instruction. The District's use of the term is not intended to imply involvement in a structured RTI process.

advocacy services. This universal system has been used by the District to inappropriately bypass referral, identification and evaluation procedures mandated by the Individuals with Disabilities Education Act ("IDEA").

#### A. Description of the Problem

The Complainants hereby allege that upon their information and belief, the Upper Arlington City School District has established a pattern and practice of willful violations of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*, by:

- (1) Failing to properly identify and evaluate students with disabilities under the category of Specific Learning Disability, as required by 20 U.S.C. § 1414(b)(6), 34 C.F.R. § 300.307, OAC § 3301-51-01(B)(10)(d)(ii)(x)(a), and denying to eligible children the protections, educational rights and procedural safeguards afforded by IDEA, 20 U.S.C. § 1412(a);
- (2) Using their "intervention" process to delay evaluations in violation of OAC § 3301-51-06(A)(4).
- (3) In failing to evaluate and identify students with specific learning disabilities, the District failed to meet its Child Find obligations, 20 U.S.C. § 1412(a)(3)(A); 34 C.F.R. § 300.111, and denied to eligible children the protections, educational rights and procedural safeguards afforded by IDEA, 20 U.S.C. § 1412(a);

These violations have been uncovered following a series of Complaints undertaken on behalf of several of the identified Complainants residing in the Upper Arlington City School District and as a result of these families meeting and exchanging stories of their individual experiences while forming the Upper Arlington – Kids Identified with Dyslexia (UA-KID) organization. Said Complainants have alleged the failure of the District to appropriately identify and evaluate students suspected of having Specific Learning Disabilities ("SLD").<sup>2</sup>

*Allegation 1: Upper Arlington City School District fails to meet the Response to Intervention requirements for evaluating and identifying students suspected of having Specific Learning Disabilities.*

The Ohio Operating Standards indicate that a "child with a disability" is defined as "a child evaluated in accordance with rule 3301-51-06 of the Administrative Code as having a cognitive disability (mental retardation), a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this rule as 'emotional disturbance'), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services." OAC § 3301-51-01(B)(10). Specifically, Upper Arlington fails to identify students suspected of being a 'child with a disability' in the area of 'specific learning disability.' A student suspected of having a specific learning disability would exhibit characteristics of "a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability

---

<sup>2</sup> This complaint is intending to supplement, not supplant, any individual remedies or complaints pursued by specific families. This complaint is focused on systemic, wide-spread concerns and resolutions and not remedies for individual students.

to listen, think, speak, read, write, spell, or do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain function, dyslexia, and developmental aphasia." OAC § 3301-51-01(B)(10)(d)(ii)(x)(a).

Upper Arlington City School District fails to ensure that initial evaluations are conducted for children suspected of having a specific learning disability. OAC §3301-51-06(A)(1) ("Each school district shall adopt and implement written policies and procedures, approved by the Ohio Department of Education, Office for Exceptional Children, to ensure that a referral process is employed to determine whether or not a child is a child with a disability. *The school district of residence shall ensure that initial evaluations are conducted* and that reevaluations are completed.")(emphasis added). Although Upper Arlington has developed written procedures for the implementation of the Response to Intervention method, see Board Policy 2460 (attached), it fails to implement that policy in a method that meets the minimum guidelines as specified in Ohio's Operating Standards. OAC §3301-51-06(H)(3)(f). Students who meet the Specific Learning Disability profile should be evaluated for the purposes of determining the presence of a 'specific learning disability.' Systematically, students with diagnoses of Dyslexia, let alone those merely "exhibiting characteristics of" are not evaluated.

Indeed, despite its own Board policy, the District does not use a "Response to Intervention" model, and instead has proposed that "Response to Instruction" is more appropriate terminology to describe their process. According to documents provided by the District pursuant to a public records request, the "Response to Intervention" committee, formed during the 2009-10 school year, succeeded in redefining the terminology and proposing a vague outline of "essential elements" for a "Response to Instruction" model. Not only did the committee fail to further the District's ability to comply with federal and state Response to Intervention protocols, but Melissa Gordon, Upper Arlington's Director of Intervention Services, had an annual evaluation in the 2009-10 school year that indicated the goal of developing a plan for the identification of SLD students had been "taken off the table" as it was no longer a state requirement.<sup>3</sup> Mrs. Gordon further indicated that the District employs "a modified RTI pattern of strengths and weaknesses profile to identify students with SLD." Curiously enough, when recently asked about this approach, Stacie Lang Shouse, a school psychologist at Jones Middle School could not reference any District manuals or documents referencing that language and had no understanding of the meaning behind the statement. Specifically, Upper Arlington's "intervention" process fails in the following ways:

- The "interventions" provided are not scientifically-based and are not provided at appropriate levels of intensity, frequency, duration, and integrity (relative to the student's needs). OAC §3301-51-06(H)(3)(d)(ii).
- Upper Arlington fails to include parents if/when convening an educational team to conduct any of the activities associated with the intervention process. OAC §3301-51-06(H)(2)-(3).
- If meetings occur with educational teams that do not include parents, Upper Arlington otherwise fails to share or provide any documentation of assessments or intervention decisions made pursuant to the process. OAC §3301-51-06(H)(3).
- Upper Arlington uses subjective and technically-inadequate assessment procedures to assess a child's progress in the intervention program offered. OAC §3301-51-06(H)(3)(d)(iii).

<sup>3</sup> Regardless of the need to develop an RTI program to meet state requirements, the District is required to implement one as its system for identifying students suspected of having SLD, having adopted it as Board Policy.

- Intervention assessments are not reported or shared with the parents. OAC §3301-51-06(H)(3)(d)(iii).

- Intervention assessments are not analyzed to determine whether a discrepancy is present between: (a) the actual and expected performance in the child's rate of progress in developing the skill, or (b) the child's level of performance on measures assessing one or more of the academic areas listed above. OAC §3301-51-06(H)(3)(d)(iv). More simply, the student's response to the "interventions" is never determined.

Upper Arlington fails to use the process identified in its Board Policy as a foundation for referrals for initial evaluations under IDEA. The District fails to identify a student as a child with a disability when the child fails to make sufficient progress to meet age or state-approved grade-level standards in one or more of the following areas: oral expression, listening comprehension, written expression/spelling, basic reading skill, reading fluency skills, reading comprehension, mathematics calculation or mathematics problem-solving. OAC §3301-51-06(H)(3)(b). Not only is it inappropriate of Upper Arlington to fail to evaluate these students, but it also fails to maintain or use data from interventions to determine eligibility for special education services. OAC §3301-51-06(A)(3) ("*Each school district shall use data from interventions to determine eligibility for special education services, appropriate instructional practices, and access to the general curriculum.*") (emphasis added). Even if a child fails to make adequate progress under the "intervention" model, the District fails to refer the child for an eligibility review under IDEA.

*Allegation 2: Upper Arlington City School District uses their "intervention" process to delay evaluations and the identification of students with Specific Learning Disabilities.*

Upper Arlington consistently and unnecessarily requires students to engage in lengthy "intervention" processes prior to evaluating or determining a child eligible for special education services. OAC §3301-51-06(H)(3)(d)(v); OAC §3301-51-06(A)(4) ("*A school district may not use interventions to delay unnecessarily a child's being evaluated to determine eligibility for special education services. If such interventions have not been implemented prior to referral for evaluation, appropriate interventions should be implemented during the same sixty-day time frame during which the school district conducts a full and individual evaluation.*") (emphasis added).

Upper Arlington is consistently placing children in "interventions" and leaving them there for multiple years, often without measuring or reporting progress to parents. This is not an isolated event, but is a systematic, wide-spread (and ineffective) instructional model. The District has gone so far as to establish "Entrance Criteria" and "Exit Criteria" to be used as guidelines for recommending one of their common "interventions," Orton-Gillingham instruction. (See attached). The "Entrance Criteria" requires a student to demonstrate academic deficiencies of 1-2 years below grade level in Reading fluency, Spelling, and Word recognition/decoding in order to qualify for the instruction. Unfortunately, Complainants' children were routinely given this instruction (by its definition evidencing the District's knowledge of the presence of severe academic delays) without referral to an IAT process, or for an initial evaluation. By the time children in Upper Arlington meet the "entrance criteria" for Orton-Gillingham, their deficits are at a level that the District should be conducting initial evaluations. An initial evaluation should not be delayed by being placed in "interventions" for another 1-2 years.

Additionally, the extent to which Upper Arlington uses "interventions" to delay assessments is contained squarely within its "Orton-Gillingham Progression of Services Guidelines, Fall 2010" (see attached). Most disturbingly, Upper Arlington clearly states that if a child is in first grade and "has g

known diagnosis of Dyslexia," it will implement its formula of interventions for up to three years with no referral for disability services. (see attached, emphasis added). The Complainants' experiences distinctly parallel this "progression" of "interventions" and illustrate the District's use of this process to delay referring students for IDEA eligibility. Unfortunately, as a result of consistently failing to identify students suspected of having Specific Learning Disabilities, and using their intervention process to delay initial evaluations, the District also fails to meet its child find obligations.

*Allegation 3: As a result of Upper Arlington's failures to meet the Response to Intervention requirements for evaluating and identifying students suspected of having Specific Learning Disabilities, and its use of the "intervention" process to delay evaluations and the identification of students with Specific Learning Disabilities, the District fails to meet its Child Find obligations.*

Upper Arlington City School District systemically fails to identify, refer and evaluate students suspected of having a disability. 20 U.S.C. §1412(a)(3); OAC §3301-51-03(B)(3)(a); 34 C.F.R. § 300.111 (c)(1) ("All children with disabilities residing in the State and who are *in need of special education* and related services must be identified, located and evaluated... *Child find must also include children who are suspected of being a child with a disability and in need of special education*, even though they are advancing from grade to grade.") (emphasis added).

Upper Arlington consistently violates child find policies under state and federal law as it fails to identify and evaluate students either (a) clearly suspected of having a disability, or (b) already diagnosed with a disability by a private evaluator. Upper Arlington systematically violates child find procedures as the district offers students "interventions," but yet fails to implement mandated child find procedures to identify and evaluate these same students as "students with disabilities." Instead, students are placed in a cycle of "interventions" that are not individualized, fail to include parent participation, are not measured for success, and can last upwards of 3-4 years with no referral for special education intervention. In fact, it is parents, who after 3-4 years of watching their children continue to exhibit significant academic deficits, make the initial referrals for evaluations or seek private assessments because of the Districts' failure to evaluate. Not one of the Complainants had the District refer his/her child for an initial evaluation based upon academic deficits.

Upper Arlington City School District, through the systemic application of a spurious "intervention" process, fails to meet its Child Find obligations. It does so by failing to implement an appropriate process of evaluating and identifying students suspected of having Specific Learning Disabilities, including an appropriate, scientifically-based Response to Intervention model and by using an "intervention" process to delay the evaluation and identification of students with Specific Learning Disabilities.

#### **B. Date(s) of Violation**

It is alleged that these violations have occurred over an extensive period. The systemic and pervasive nature of these violations has only recently been discovered. Complainants recognize the one-year limitation on bringing Complaints to the Ohio Department of Education, but assert that the violations are ongoing, continue to this day, and that any limitation on the time for filing Complaints should be tolled in light of the recent discovery of the issues. Complainants assert that they brought this Complaint within one year from their discovery of the systemic and universal nature of the violations.

### C. Proposed Resolution to the Problem

These allegations are taken from facts uncovered during the course of individual complaints and as a result of these families meeting and exchanging stories of their individual experiences while forming the UA-KID organization. As such, there are several individuals with access to documentation and/or information that can be used to corroborate this Complaint. Complainants request the opportunity to meet individually with the Ohio Department of Education, Office for Exceptional Children representative assigned to investigate this matter. Additionally, Complainants believe that other families, in similar situations, have had the same or similar experiences. They respectfully request that the representative assigned to investigate this matter do so in a manner that would uncover the extent of the District's use of their "intervention" model to deny or delay the identification of students with Specific Learning Disabilities. To wit, they request that the representative review:

- The number of children, from grades K-5, identified by each elementary school building "Literacy team" during the 2010-11 school year as being in need of "intervention;"
- The number of children, from grades K-5, receiving programming services in one or more of the "interventions" designed by the District during the 2010-11 school year;
- A review of the average length of time (in years) children are enrolled in "interventions;"
- The number of children exited from "intervention" during the 2010-11 school year;
- The number of children served by an Intervention Assistance Team plan during the 2010-11 school year compared to the above information;
- The number of children, from grades K-5, receiving initial evaluations during the 2010-11 school year under a suspected disability of SLD compared to the above information;
- The data and progress monitoring system employed by the District and how the information is presented and/or shared with parents;
- The protocol employed by the District to determine if/when a child is referred for special education assessment under IDEA; and
- The extent to which the Board's Response to Intervention policy (Board Policy 2460) is undermined by the administration's "Response to Instruction" program and its definition of "a modified RTI pattern of strengths and weaknesses profile to identify students with SLD."

Complainants believe that key and critical information would be uncovered by a review process inclusive of the above information. Finally, we ask that the representatives review not only the files of students recently identified as Specific Learning Disabled, but also the files of those students engaged in the Interventions Assistance Team process and those receiving "interventions" without the benefit of inclusion in the Intervention Assistance Team or IDEA identification procedures.

Complainants believe that the following corrective actions steps are needed to remedy the systemic violations alleged in this filing:

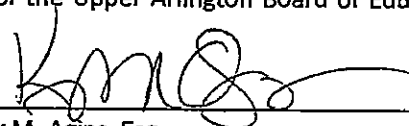
- Continuing education outlining Child Find, Evaluation/Identification procedures, and characteristics of a variety of Specific Learning Disabilities should be conducted with all District employees, and provided by third party independent experts on each topic.
- Immediate discontinuation of any and all policies and guidelines that do not adhere to a scientifically-based RTI process, and/or have the effect of denying or delaying the individual evaluation of students for eligibility under IDEA.

- The Board and Administration should be required to institute a sustained, multi-year, comprehensive set of RTI implementation activities, led by an independent, expert, third-party individual or organization providing high-quality technical assistance that contributes to the District's implementation of a comprehensive Response to Intervention framework that adheres to all required components of the RTI process as identified in Ohio Administrative Code § 3301-51-06(H).
- The Board and Administration should create and sign a policy statement acknowledging the rights of students with disabilities to be identified and served appropriately under IDEA and reasserting the District's commitment to doing the same.
- A recommendation should be made to the Upper Arlington Board of Education that individuals responsible for the systemic violations should be reviewed and subject to discipline in a progressive discipline system, instituted for any and all employees found to be in violation of IDEA. The system should include more severe penalties for a willful violation of student or parent educational rights.

**D. List of School officials with whom you have been in contact regarding these issues**

Complainants have made several attempts to work with the District in resolving these allegations, both individually and through advocacy efforts with UA-KID. One individual with knowledge of this situation, through documents and Board meetings, but who has refused to meet with individual parents and/or UA-KID is Dr. Jeffrey Weaver, Superintendent. Complainants have spoken with Melissa Gordon, Director of Intervention Services; Deborah Binkley, Assistant Superintendent; Paula White, Elementary Coordinator for Intervention Services; Shawn Strohl, Middle School Coordinator of Intervention Services; Lauren Kowalski, EIS Coordinator; Kate Drugan, Teacher Leader (K-3 Math and Literacy); Julie Wright, Teacher Leader (4-12 Literacy, K-12 Social Studies); Marjory Pizzuti, President of Upper Arlington Board of Education; Robin Comfort, Vice-President of Upper Arlington Board of Education; Gloria Heydlauff, Member of Upper Arlington Board of Education; Robert Arkin, Member of Upper Arlington Board of Education; and several building-level administrators, principals, school psychologists, intervention specialists and related services personnel. Members of UA-KID sought meetings with William Catalano, the fifth Member of the Upper Arlington Board of Education, but he was unresponsive.

Submitted on behalf of Complainants by:



Kerry M. Agins, Esq.  
 Ohio Supreme Court No. 0072558  
 Kerry@SiegelandAgins.com  
 Andrea M. Valentino, Esq.  
 Ohio Supreme Court No. 0082354  
 Andrea@SiegelandAgins.com  
 Siegel & Agins, Co., L.P.A.  
 4070 Mayfield Road  
 Cleveland, OH 44121  
 216-291-1300 ext. 310

cc: Dr. Jeffrey W. Weaver, Superintendent of Upper Arlington City School District  
 Brenda Louisin, Louisin Child Advocacy



**OHIO DEPARTMENT OF EDUCATION  
OFFICE FOR EXCEPTIONAL CHILDREN**

In the Matter of )  
 )  
 ) **Complaint**  
 )  
 ) **Affidavit in Support of Complaint**  
 )  
 )

State of Ohio )  
 ) ss:  
County of Franklin )

NOW COMES AFFIANT, <sup>Parent of</sup> "Student A", being first duly sworn in accordance with law, deposes and states as follows:

1. My name is <sup>Parent of</sup> "Student A" and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.
2. My daughter, "Student A", currently attends Barrington Elementary School, a school in the Upper Arlington School District.
3. <sup>Student</sup> "A" is nine years old and is currently a third grade student.
4. <sup>Student</sup> "A" began exhibiting difficulty learning to read in kindergarten at Barrington Elementary School.
5. During her kindergarten year, <sup>Student</sup> "A" received Phonemic Awareness two times per week for 30 minutes each session. I did not learn that <sup>Student</sup> "A" was a part of this intervention until her Individualized Education Plan (IEP) meeting held in Spring, 2011, three years after her kindergarten year, when it was listed as a previously received intervention in the Profile section of her IEP. To my knowledge, during this time, her progress in this group was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how <sup>Student</sup> "A" was responding to this intervention services or the

progress.

7. At the conclusion of <sup>Student</sup> A's first grade year, my wife, <sup>Parent of Student</sup> A approached <sup>Student</sup> A's teacher and questioned whether <sup>Student</sup> A should be tested to see if she is a child with a disability due to her ongoing struggles with reading and writing. <sup>Parent of Student</sup> A was told that students "level out" at the end of second grade and we should wait to see if <sup>Student</sup> A's abilities are just developing slower than others or if there might be a real disability.
8. When <sup>Student</sup> A entered second grade, we again received a call from her teacher notifying us that <sup>Student</sup> A continued to need extra help in reading and that she would be able to receive intervention services. Following this call, we received another letter from the school indicating that she was eligible to receive intervention services in reading and writing. She was placed into the Leveled Literacy Intervention System and received services through this program five times per week for 30 minutes per session in a small group. During this school year, I was never notified of what interventions <sup>Student</sup> A was receiving or the frequency of the intervention groups. To my knowledge, during this time, her progress in this group was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how <sup>Student</sup> A was responding to the intervention services or the results of these interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> A's progress.
9. Despite the continued interventions during her second grade year, <sup>Student</sup> A continued to struggle. In January 2010, <sup>Parent of Student</sup> A again asked <sup>Student</sup> A's teacher if <sup>Student</sup> A should be tested to see if she had a disability due to her continued struggles in reading. Instead of initiating any academic testing, <sup>Parent of Student</sup> A was told to take <sup>Student</sup> A to a doctor to check her diet.

results of the interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> A's progress.

6. When <sup>Student A</sup> entered first grade, we received a call from her teacher to notify us that <sup>Student A</sup> needed some extra help in reading and that the school was so glad they could provide this support through an intervention group. After this phone call, we received a letter from her school indicating that she was eligible to receive intervention services in the reading and writing. She began receiving intervention services through the Reading Recovery program on August 26, 2008. She continued in this program until February 4, 2009, for a total of 20 weeks. While in the Reading Recovery program she received 1:1 instruction for 30 minutes per session, five days per week. During this time, the Reading Recovery teacher told my wife, <sup>Parent of Student A</sup>; that <sup>Student A</sup> was the most difficult student she has taught in 13 years of teaching and that <sup>Student A</sup> should be medicated. The teacher never elaborated on this comment and did not indicate why <sup>Student A</sup> was so difficult to teach. After February 4, 2009, <sup>Student A</sup> transferred to the Reading/Writing Intervention program utilizing the Touchphonics program and leveled books. She received this program 4 days per week for 35 minutes per session in a small group. During this school year, I was never notified of what interventions <sup>Student A</sup> was receiving, the frequency of the intervention groups, or that her intervention program changed during the school year and the reasons behind this change. To my knowledge, during this time, her progress in either program was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how <sup>Student A</sup> was responding to the intervention services or the results of these interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding <sup>Student A</sup>'s

and speech habits and to get her eyes checked. It was also suggested that we seek an Attention Deficit Hyperactivity Disorder assessment for <sup>Student</sup> A and seek to place her on medication. Based upon this recommendation, my wife and I had <sup>Student</sup> A's eyes tested which resulted in us learning that she did need glasses for reading. We also had <sup>Student</sup> A tested for Attention Deficit Hyperactivity Disorder in February 2010. This testing was completed by Dr. Patty Francis and the results of this assessment indicated <sup>Student</sup> A did not have Attention Deficit Hyperactivity Disorder. In completing this assessment, Dr. Francis, requested <sup>Student</sup> A's teachers complete the Vanderbilt Teacher Behavior Evaluation Scales. In completion of this Scale, <sup>Student</sup> A's teachers were asked to rank <sup>Student</sup> A's academic abilities in the areas of reading, writing, math, and homework completion on a scale of 1 to 5 with 1 being the most problematic and 5 being above average. Both <sup>Student</sup> A's Regular Education Teacher and Intervention Teacher ranked her with a 1 in reading and a 2 in writing. These scores were both in the problematic range according to the scale. Additionally, per the Evaluation Scale, <sup>Student</sup> A's teachers provided brief narratives discussing <sup>Student</sup> A's classroom performance. <sup>Student</sup> A's Intervention Teacher indicated that <sup>Student</sup> A had been participating in Reading/Writing Intervention for the past two years and still looked at the initial sounds of words to guess what the word may be in her reading. She also indicated that <sup>Student</sup> A had difficulty retelling short stories and wrote that she was "concerned that she [<sup>Student</sup> A] will fall further and further behind which may affect her self-esteem." <sup>Student</sup> A's Regular Education Teacher reported that it had been "tricky" for <sup>Student</sup> A to learn to read, that she struggled with integrating reading strategies and that her eyes seem to be all over the page when she reads. Despite these comments, neither teacher referred <sup>Student</sup> A for an evaluation or suggested to us that she

may be a child with a disability.

10. At the end of <sup>Student</sup> A'' 's second grade year, May 2010, we received her scores on the TerraNova testing. <sup>Student</sup> A'' scored in the 26<sup>th</sup> percentile for reading and the 4<sup>th</sup> percentile for language.
11. During the Fall of <sup>Student</sup> A'' 's third grade year (Fall 2010), we again received a letter from the District notifying us that <sup>Student</sup> A'' was eligible to receive intervention services for Reading and Writing. She was scheduled for intervention 4 days per week for 40 minutes in a small group for reading and writing utilizing the Wilson Language Program and leveled books. We asked to meet with <sup>Student</sup> A'' 's teacher and the intervention specialist who had been working with <sup>Student</sup> A'' . At this meeting, we directly asked the District to complete an evaluation to see if <sup>Student</sup> A'' had a disability. The District responded that they would take our request into consideration but made no further attempts to initiate an initial evaluation.
12. After our meeting with the District in Fall 2010, we proceeded to have a private evaluation conducted by Dr. Dorothy Morrison from The Ohio State University Tutoring and Clinical Programs. Dr. Morrison's report concluded that <sup>Student</sup> A'' was a child with phonological dyslexia. In her report, Dr. Morrison indicated that <sup>Student</sup> A'' 's reading performance was limited when compared to her peers. Furthermore, the assessment indicated that <sup>Student</sup> A'' exhibited severe struggles with language processing and language, but evidenced strengths in listening to contextual reading.
13. Upon receiving Dr. Morrison's report, we asked to meet with <sup>Student</sup> A'' 's educational team, which included the Intervention Specialist currently working with <sup>Student</sup> A'' , <sup>Student</sup> A'' 's current Regular Education Teacher, the Principal, and her second grade teacher. Based

upon the results of the private assessment, we asked for <sup>Student</sup> A" to be identified as a child with a disability and to be provided with an Individualized Education Plan. The District first responded by suggesting <sup>Student</sup> A" be referred to the Intervention Assistance Team and be monitored for six weeks to track progress or lack thereof. We disagreed with this process as she had been receiving interventions for over three years, with no success, and we had documentation concluding that she was a child with a disability.

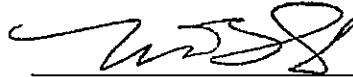
14. The District finally agreed to conduct an Evaluation Team Report and <sup>Student</sup> A" was identified as a child with a disability who requires specialized instruction in February 2011. Per <sup>Student</sup> A" 's Evaluation Team Report, she exhibited difficulties in reading, spelling, written expression and math and required specialized instruction in each of these areas.
15. As of March 2011, <sup>Student</sup> A" is now receiving specialized instruction and related services through an Individualized Education Plan.
16. During <sup>Student</sup> A" 's kindergarten, first, second and third grade years, we were never invited to a meeting to learn about or discuss the Reading Interventions being offered by the District or why they were being offered.
17. During <sup>Student</sup> A" 's kindergarten, first, second and third grade years, we never received any progress reports or data indicating how <sup>Student</sup> A" was responding to the intervention services or the results of the interventions. It was not until the District completed <sup>Student</sup> A" 's Evaluation Team Report, after we provided documented proof of her disability, that we were told <sup>Student</sup> A" had not adequately responded to any of the previous years of intervention. As stated in her Evaluation Team Report, "Despite the classroom and intervention support, <sup>Student</sup> A" has not responded in order to be able to work at grade level."

18. During <sup>Student</sup> A's kindergarten, first, second and third grade years, the district never sought to refer <sup>Student</sup> A" to the Intervention Assistance Team process, never indicated that she might be a student with a disability, and never referred her for an initial evaluation.

FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Student A"

SWORN TO BEFORE ME, and subscribed in my presence, this 2<sup>nd</sup> day of June, 2011.



Notary Public



TERRI-LYNNE B. SMILES  
ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
My Commission Has No Expiration  
Section 147.03 R.C.

**OHIO DEPARTMENT OF EDUCATION  
OFFICE FOR EXCEPTIONAL CHILDREN**

**In the Matter of** )  
**IDEA Complaint** )  
**Upper Arlington City Schools** ) **Affidavit in Support of Complaint**  
)  
)  
)

State of Ohio )  
) ss:  
County of Franklin )

\*Parent of  
Students  
NOW COMES AFFIANT, I, K, M & N", being first duly sworn in accordance with

law, deposes and states as follows:

1. My name is \*Parent of Students I, K, M & N" and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.
2. I have four children who are attending or have attended schools within the Upper Arlington School District.
3. My children are: (1) "Student I" , age 16 who currently attends Upper Arlington High School; (2) "Student K" , age 14 who currently attends Jones Middle School; (3) "Student M" , age 10 who currently attends a private school, but who attended Barrington Elementary School prior to enrollment at her current school; and (4) "Student N" ; age 8 who currently attends a private school, but who attended Barrington Elementary for the 2008-09 school year.



4. My eldest daughter, "Student I", was initially identified for an Individualized Education Plan when she was in second grade due to motor planning issues.
  - a. "Student I" exhibited difficulties with her reading abilities while she was in elementary school. Due to her exhibited difficulties, I continuously requested that she receive intervention services to address reading skills through her Individualized Education Plan. Despite my efforts, the District never informed me that it offers instruction in the Orton-Gillingham program nor did the District initiate an evaluation to determine whether or not "Student I" also had a specific learning disability in addition to her identified motor planning needs.
  - b. At the end of eighth grade, the District removed her from her Individualized Education Plan and offered her accommodations through a 504 Plan as they believed she no longer required specialized education and services.
  - c. "Student I" continues to exhibit deficits in reading which is now evident by the fact that she is unable to keep pace with the volume and complexity of her high school reading assignments and regularly needs assignments read to her.
5. My son, "Student K", attended Barrington Elementary School and began exhibiting difficulty learning to read in first grade. During first grade, "Student K" participated in the Reading Recovery Program. To my knowledge, during this time, his progress in this group was not charted, measured or otherwise assessed. To

my knowledge, during this time, I did not receive any written progress reports or data indicating how <sup>Student</sup> "K" was responding to this intervention service or the results of the interventions. The District did not ask to meet with us to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> "K" 's progress.

- a. When <sup>Student</sup> "K" entered second grade we were notified by the school that he was eligible to receive services in Reading and Writing. He received Reading/Writing Intervention during this school year. To my knowledge, during this time, his progress in this group was not charted, measured or otherwise assessed. We never received any written progress reports or data indicating how <sup>Student</sup> "K" was responding to this intervention service or the results of the interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> "K" 's progress.
- b. When <sup>Student</sup> "K" entered third grade, we were again informed that he continued to be eligible to receive services in Reading and Writing. He again participated in Reading/Writing Intervention. During the course of this school year, staff also recommended that <sup>Student</sup> "K" should receive instruction in the Orton-Gillingham program. To my knowledge, however, during this time, his progress in this group was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how <sup>Student</sup> "K" was responding to this intervention services or the results of the interventions. The District

never asked to meet with us to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> K's progress.

c. At the end of <sup>Student</sup> K's third grade year, his cognitive and academic abilities were assessed as part of the standard curriculum. <sup>Student K</sup> scored in the 98th and 99th percentile on assessments of cognitive skills. Despite this marked superior cognitive ability, his academic assessments yielded scores in the 78th percentile for reading and the 71st percentile for language. The District did not contact me to discuss this discrepancy among his scores, nor did the district refer <sup>Student K</sup> for an initial evaluation.

d. At the beginning of <sup>Student</sup> K's fourth grade year, he continued to receive intervention in the Reading/Writing Intervention program. Approximately half-way through this school year, I was approached on the playground by one of Barrington's Intervention Specialists and told <sup>Student</sup> K needed to receive intervention based upon the Orton-Gillingham program. <sup>Student</sup> K then began receiving intervention in the Orton-Gillingham program for the second semester of his fourth grade year. Additionally, during this school year, <sup>Student</sup> K was diagnosed with Attention Deficit Hyperactivity Disorder (ADHD). The District never asked to meet with me to discuss why <sup>Student</sup> K was changing interventions or the recommendation that he receive Orton-Gillingham. To my knowledge, during this time, his progress in either group was not charted, measured or otherwise assessed. We never

received any progress reports or data indicating how <sup>Student</sup> K" was responding to the intervention services or the results of the interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> K"'s progress.

- e. In April 2007, spring of his fourth grade year, <sup>Student</sup> K" participated in the Ohio Achievement Tests. His scores for Math and Reading were in the advanced range in comparison to his writing score that fell in the basic range. In a letter from Upper Arlington addressing these test scores, it was indicated that <sup>Student</sup> K" had superior cognitive ability and tested as gifted in math, science and social studies. The letter continued to indicate that, despite his superior cognitive ability and his testing in the gifted range in three areas, he was ineligible to receive services in gifted education as his reading and writing scores were too low.
- f. When <sup>Student</sup> K" entered fifth grade, based upon the information from the Ohio Achievement Tests, I requested an evaluation to see if he would qualify for gifted services. Barrington's school psychologist completed this testing and <sup>Student</sup> K"'s scores indicated a significant discrepancy between his ability and achievement, especially in written expression. Despite this information, the District did not refer <sup>Student</sup> K" for an initial evaluation to determine whether or not he was a child with a disability. I then requested the District conduct an initial

evaluation to determine whether he was a child with a disability based upon the results of this testing indicating he presented with a significant discrepancy between his ability and achievement. The District agreed to conduct the testing and <sup>"Student</sup> K" was identified as a child with a specific learning disability and began to receive services via an Individualized Education Plan.

g. "Student K" is now an eighth grade student at Jones Middle School. He was re-evaluated in November 2010 to determine whether or not he continued to qualify as a child with a disability who is eligible for special education and related services. The District agreed that he continues to be a child with a specific learning disability; however staff did not believe he continued to qualify to receive special education and related services and offered him accommodations on a 504 Plan.

6. My daughter "Student M" attended Barrington Elementary School from kindergarten through first semester of her fourth grade year. "Student M" was privately enrolled at Marburn Academy, a private school for children with ADHD and learning disabilities, in January 2011.

a. When <sup>"Student</sup> M" entered first grade, I was notified that she was eligible to receive intervention services in Reading and Writing. Accordingly, she received services through the Reading Recovery program during the course of this school year. To my knowledge, during this time, her progress in this program was not charted, measured or otherwise

assessed. We never received any progress reports or data indicating how "Student M" was responding to the intervention services or the results of these interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding "Student M" 's progress.

- b. When "Student M" entered second grade, I was again informed that she was eligible to continue to receive intervention services in Reading and Writing. During this school year she received Reading/Writing Intervention. Additionally, towards the end of the school year, "Student M" received instruction in the Orton-Gillingham program. To my knowledge, during this time, her progress in this program was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how "Student M" was responding to the intervention services or the results of these interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding "Student M" 's progress.
- c. Despite the continued interventions, now for two school years, "Student M" continued to struggle. Upon her entry into third grade, I was again notified that she qualified to receive intervention services in Reading and Writing. The District offered the same interventions she received in second grade (participation in Reading/Writing Intervention and Orton-Gillingham). The District never asked to meet with us to discuss

the interventions or to share intervention data with us regarding Student M's progress.

- d. Upon Student M entering fourth grade, I was informed that she no longer qualified to receive Orton-Gillingham instruction or Reading/Writing Intervention services. Due to Student M's ongoing struggles, I e-mailed the District team to communicate Student M's feelings of defeat and embarrassment as she was starting to believe she was stupid and slow due to her reading and writing challenges. I also shared with the District Student M's score of 67 words correct per minute on a recent DIBELS assessment that indicated that she required intensive, substantial intervention and requested that she remain in intervention services. In response to this e-mail, Student M's teachers indicated that her difficulties were due to the fact that she was simply not a confident reader and was insecure. The District then agreed to offer her writing intervention only in the area of Spelling. The District did not, however, offer to convene a meeting to discuss my concerns or Student M's ongoing academic difficulties nor did Student M's team refer her for an initial evaluation.
- e. Based upon Student M's continued deficits in reading and written expression, I had her privately evaluated by Dr. Charlotte G. Andrist, an Educational Consultant and Language Learning Tutor. Dr. Andrist's evaluation determined that Student M's decoding and sight word recognition skills were in the below average range, her fluency

fell in the below average range, <sup>Student</sup> "M" was functioning in the deficit range in spelling, and that, overall, she was functioning below expected levels for her age in reading basic skills and written expression (spelling). Based upon her findings, Dr. Andrist recommended, in part, that <sup>Student</sup> "M" "receive daily small group or individualized instruction in decoding skills, spelling and reading fluency using an explicit, systematic simultaneous multisensory structured language approach." Upon receipt of the results of this evaluation, on September 17, 2010, I wrote to Barrington's Principal and requested an evaluation team report be completed to determine whether <sup>Student</sup> "M" was a child with a disability. I attached Dr. Andrist's report to this letter.

- f. On October 12, 2010, I received a response from Barrington's Principal indicating that <sup>Student</sup> "M" had finally been referred to the Intervention Assistance Team. The District did agree to conduct an initial evaluation and on November 17, 2010, <sup>Student</sup> "M" was eventually found to be a child with a disability who was eligible to receive special education and related services under the category of specific learning disability. She qualified as a child with a specific learning disability in the areas of Reading Fluency, Basic Reading Skills, Written Expression and Mathematics Calculation.
- g. During the course of <sup>Student</sup> "M" 's evaluation, I met with the school psychologist at Barrington. He showed me <sup>Student</sup> "M" 's test scores and



said she fit the profile of a bright child who also had dyslexia and asked me what the team should do. I responded by stating that she needed an Individualized Education Plan. The Psychologist then replied by telling me that we had a "window of opportunity" and that I needed to speak with someone above Melissa Gordon, Director of Intervention Services, as many staff members' hands have been tied for many years.

- h. During <sup>Student</sup> M's first, second and third grade years, we were never invited to a meeting to learn about or discuss the Reading Interventions being offered by the District or why they were being offered.
  - i. During <sup>Student</sup> M's first, second and third grade years, the district never sought to refer <sup>Student</sup> N to the Intervention Assistance Team process, never indicated that she might be a student with a disability, and never referred her for an initial evaluation.
7. My daughter, <sup>Student</sup> N, attended Barrington Elementary School for kindergarten during the 2008-09 school year. She was privately enrolled at Marburn Academy for the 2009- 2010 school year and continues to be educated privately at Marburn.
- a. <sup>Student</sup> N exhibited struggles with reading during the onset of her kindergarten year, particularly in the area of early literacy skill development. Based upon these struggles and the family's history with reading difficulties, <sup>Student</sup> N's teacher recommended that

"Student N" participate in Barrington's LIFT program for additional services (the LIFT program offers students a half day of language interventions in addition to their half day kindergarten programming). Despite her teacher's recommendation, "Student N" did not qualify for the LIFT program based upon her scores from the K-RAL assessment. In January, "Student N"'s teacher informed me that she should be retained in kindergarten due to her academic difficulties and lack of progress.

- b. Based upon her teacher's recommendation for retention, I brought "Student N" to Marburn Academy to privately have the Comprehensive Test of Phonological Processing (CTOPP) administered to her. The results of this assessment indicated that she might have a learning disability so I had "Student N" independently evaluated in February 2009. The results of this evaluation suggested that "Student N" may have Heredity Developmental Dyslexia and a Generalized Anxiety Disorder.
- c. In March 2009, I shared the results of "Student N"'s private testing with her kindergarten teacher and we met to brainstorm ways to assist "Student N". At this meeting, I learned "Student N" was receiving a form of intervention; however, I was never informed as to what interventions she was receiving, the frequency of these interventions and any progress in response to the interventions. I was also told that, due to this intervention, "Student N" misses large amounts of content area teaching in her general education classroom.

- d. In April 2009, after I met with "Student N"'s teacher, I requested that the District conduct testing based upon the results of the CTOPP. The only testing completed by the District based upon my request was a re-administration of the CTOPP by an Intervention Specialist. On this assessment, she scored a 94 and 85 in Phonological Awareness and Phonological Memory respectively; however her rapid naming score was a 59 which placed her lower than the first percentile. When she was given the CTOPP at Marburn, she had scored an 82 in rapid naming, indicating that her skill level had significantly declined over the course of three months. Knowing that the District was only administering the CTOPP to "Student N'", I had a private Speech Pathologist administer the Clinical Evaluation of Language Fundamentals (CELF). The results of the CELF indicated that "Student N"'s Receptive Language Index was a 127, while her Language Content Index was an 86.
- e. After the completion of these tests, The District staff and I met for an Intervention Assistance Plan Meeting to review the results of the evaluations and discuss "Student N"'s development. At this meeting, the District reiterated their belief that "Student N'" needed to be retained and reiterated numerous areas of concern on the Intervention Assistance Team Plan Form. The District, however, never offered to refer "Student N'" for an initial evaluation and never indicated they suspected she might have a disability. The Intervention Plan also did not

indicate any scientifically, research-based interventions that would be implemented. Instead, based upon my statement that I may pursue enrollment at Marburn Academy for the following school year, the Intervention Plan simply states that a follow-up meeting date was undetermined. Additionally, once I disclosed to the team that I may pursue enrollment at Marburn Academy for "Student N", the intervention specialist currently working with "Student N", told me that she was so glad to hear that as "we have no idea what to do for her."

- f. "Student N" began Marburn Academy in first grade and is now a fluent reader.
- g. During "Student N"'s kindergarten year, we were never invited to a meeting to learn about or discuss the Reading Interventions being offered by the District.
- h. During "Student N"'s kindergarten year, we never received any progress reports or data indicating how "Student N" was responding to the intervention services or the results of the interventions.
- i. During "Student N"'s kindergarten year, the district never sought to refer "Student N" for never indicated that she might be a student with a disability, and never referred her for an initial evaluation.

FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Students I, K, M & N"

SWORN TO BEFORE ME, and subscribed in my presence, this 3<sup>rd</sup> day of June,  
2011.



TERRI-LYNNE B. SMILES  
ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
My Commission Has No Expiration  
Section 147.05 R.C.

**OHIO DEPARTMENT OF EDUCATION  
OFFICE FOR EXCEPTIONAL CHILDREN**

**In the Matter of** )  
 )  
 ) **Complaint**  
 ) **Affidavit in Support of Complaint**  
 )  
 )

State of Ohio )  
 ) ss:  
County of Franklin )

NOW COMES AFFIANT, "Parent of Student C", being first duly sworn in accordance with law, deposes and states as follows:

My name is "Parent of Student C" and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.

My daughter, "Student C", currently attends Barrington Elementary School, a school in the Upper Arlington School District.

"Student C" is six years old and is currently a kindergarten student.

On September 16, 2010, at the beginning of "Student C"'s kindergarten year, I submitted to the Principal of Barrington Elementary School a request to have an Evaluation Team Report conducted for "Student C". In addition to my written request, I provided the Principal with evaluation results indicating that "Student C" might be a child with a disability. The evaluation results included results of DIBELS testing, scores from the Comprehensive Test of Phonological Awareness, progress from summer tutoring "Student C" received in the Orton-

Gillingham program, and a letter from <sup>Student</sup> C'' 's pediatrician recommending an ETR to classify <sup>Student</sup> C'' as a child with SLD in reading.

The District convened an Intervention Assistance Team meeting on October 7, 2010 in response to my written request. At this meeting I shared that <sup>Student</sup> C'' had been receiving private tutoring in Orton-Gillingham and has exhibited difficulties with letter recognition, letter sound, writing and comprehension since the age of 3. The District, relying on classroom reports and the results of the KRA-L (Administered in September and then again in October), determined that it did not suspect <sup>Student</sup> C'' of having a disability and therefore refused to evaluate her.

Despite the District's refusal to evaluate and statement that they did not suspect <sup>Student</sup> C'' of having a disability, staff members still offered <sup>Student</sup> C'' interventions in a reading/writing intervention group and agreed to continue to monitor her progress. Specifically, the Intervention Assistance Team Plan offered at this meeting stated that my husband and I would discontinue <sup>Student</sup> C'' 's private tutoring and that the District would offer her small group Reading and Writing intervention support to monitor her progress. The Plan further stated that if <sup>Student</sup> C'' did not continue at her current rate of growth, the team would reconvene to reevaluate services that best meet <sup>Student</sup> C'' 's needs. The plan, however, did not include any specific interventions to be used nor was there identification of the person responsible for providing the interventions and tracking progress.

"Student C" continued to struggle as the staff failed to collect sufficient data to design interventions that would result in appropriate instruction for "Student C". To my knowledge, her progress in the intervention implemented was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how "Student C" was responding to this intervention service or the results of the interventions.

My husband and I filed a Complaint with the Ohio Department of Education in December 2010 for the District's failure to evaluate and identify "Student C" as a child with a disability. In response to this filing, in January 2011, the District requested to reconvene the Intervention Assistance Team and agreed to conduct an evaluation to determine whether or not "Student C" was a child with a disability in need of specialized instruction and related services.

"Student C" was identified as a child with a disability on March 14, 2011.

At "Student C"'s initial Individualized Education Plan meeting, I specifically asked the District if her progress was ever measured in the reading and writing intervention received through the IAT process. Barrington's Principal responded that progress data had not been taken.

"Student C" is now receiving specialized instruction and related services through an Individualized Education Plan.

FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Student C" \_\_\_\_\_

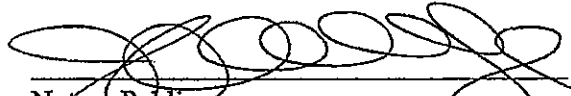


SWORN TO BEFORE ME, and subscribed in my presence, this 1 day

of June, 2011.



**JENNIFER A CRUZE**  
Notary Public, State of Ohio  
My Commission Expires  
November 21, 2015

  
\_\_\_\_\_  
Notary Public

**OHIO DEPARTMENT OF EDUCATION  
OFFICE FOR EXCEPTIONAL CHILDREN**

In the Matter of )  
 )  
 ) **Complaint**  
 )  
 ) **Affidavit in Support of Complaint**  
 )  
 )

State of Ohio )  
 ) ss:  
County of Franklin )

NOW COMES AFFIANT, <sup>Parent of</sup> "Student D", being first duly sworn in accordance with law, deposes and states as follows:

1. My name is <sup>Parent of</sup> "Student D" and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.
2. My son, "Student D" attend school in the Upper Arlington School District from 1993-2004.
3. <sup>Student</sup> "D" attended Barrington Elementary School within the Upper Arlington School District and began exhibiting signs that he was struggling to learn how to read during his elementary school years.
4. In Kindergarten, <sup>Student</sup> "D" exhibited an aversion to school. Throughout this school year, I expressed to his Kindergarten teacher my concerns regarding his lack of development of reading skills. I was told that <sup>Student</sup> "D" was a smart child and he would "catch on."
5. During <sup>Student</sup> "D"'s first grade year, I was informed by his teacher that there were "extra" spots in the Reading Recovery program and therefore <sup>Student</sup> "D" could participate. His teacher stated that he was doing okay in class, but the Reading Recovery program needed extra students to join. She also indicated that he would not have qualified for this program but for these

extra spots.

6. While <sup>Student</sup> D' was receiving instruction through the Reading Recovery program, he would routinely bring home books to read. He would read each book flawlessly; however, when I would ask him to read a word in isolation from the text, he could not do so and would melt down.
7. I approached <sup>Student</sup> D' 's Reading Recovery teacher to express my concern that <sup>Student</sup> D' was unable to sound out words or read. The teacher proceeded to yell at me and state that my attempts to teach <sup>Student</sup> D' phonics at home were jeopardizing his ability to learn to read. In addition, she told me I was crushing <sup>Student</sup> D' 's self-esteem and that I should trust the experts working with him to teach him to read.
8. During <sup>Student's</sup> D' 's participation in the Reading Recovery program, to my knowledge, his progress in this group was not charted, measured or otherwise assessed. To my knowledge, we never received any progress reports or data indicating how <sup>Student</sup> D' was responding to this intervention services or the results of the interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> D' 's progress.
9. By the time <sup>Student</sup> D' entered third grade, he was still exhibiting difficulties with reading. I approached Dr. Oakley, Barrington's Principal at the time, to express my concerns. My efforts were again rebuffed as I was told that not all children are "rocket scientists" and that I should just let <sup>Student</sup> D' be average.
10. By the end of <sup>Student</sup> D' 's third grade year, I remained concerned regarding his exhibited reading deficiencies. I employed a friend to administer a private reading assessment to determine at what level <sup>Student</sup> D' was currently reading. The assessment concluded <sup>Student</sup> D' was

reading at a beginning first grade level.

11. Based upon the results of this private assessment, I had Bonnie Ritchie, Ph.D. conduct a full educational psychological profile on <sup>Student</sup> D'. The results of her testing showed that <sup>Student</sup> D' had a 127 IQ when scores on the reading measures were omitted, but a 117 IQ when scores on the reading measures were included.
12. Based upon the reading assessment and the private psychological testing, I requested that the District complete an Evaluation to determine whether <sup>Student</sup> D' was a child with a disability. The District agreed to conduct an Evaluation at end of <sup>Student</sup> D' s third grade year.
13. During the summer after <sup>Student</sup> D' s third grade year, I privately hired a tutor to work with <sup>Student</sup> D' 1:1 utilizing the Wilson Language Program. <sup>Student</sup> D' met with his tutor 2 times per week and his reading level increased from a first to an eighth grade level over the course of this summer tutoring.
14. When school resumed in the Fall, <sup>Student</sup> D' s fourth grade year, he had been identified as a child with a disability and the school held an Individualized Education Plan (IEP) meeting. At this meeting, Joe Keith, Barrington's School Psychologist, stated to me "Well, you got what you wanted," in reference to <sup>Student</sup> D' being identified as a child with a disability. Curiously, though, <sup>Student</sup> D' did not qualify for specialized instruction in reading as the District stated he was currently performing at grade level in this area. The only reason <sup>Student</sup> D' was currently performing at grade level in reading was due to the private tutoring he received over the summer. He was identified as a child with a specific Learning Disability in Math.
15. After the Individualized Education Plan meeting, I approached <sup>Student</sup> D' s kindergarten and first grade teacher and asked why she never referred <sup>Student</sup> D' for an Evaluation Team Report

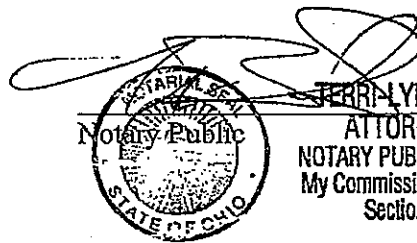
or recommended that I contact the District and request one. She responded by telling me she was not allowed to encourage parents to obtain Evaluation Team Reports due to the costs associated with the process.

16. As stated above, <sup>Student</sup> D's IEP only addressed Math and did not address his underlying language disability. Therefore, I continued private tutoring for <sup>Student</sup> D with a tutor who utilized the Orton-Gillingham approach.
17. Finally, in ninth grade, <sup>Student</sup> D was identified with a Language Processing Disorder by the Speech and Language Pathologist. His language needs were then incorporated into his IEP; however, he no longer qualified for Math instruction.
18. Due to the struggles <sup>Student</sup> D encountered with identification and receipt of appropriate services and due to developing medical concerns, I removed <sup>Student</sup> D from the Upper Arlington Schools after his tenth grade year.
19. During <sup>Student</sup> D's kindergarten, first, second and third grade years, the district never sought to refer <sup>Student</sup> D to the Intervention Assistance Team process, never indicated that he might be a student with a disability, and never referred him for an initial evaluation.

FURTHER AFFLIANT SAYETH NAUGHT,

"Parent of Student D"

SWORN TO BEFORE ME, and subscribed in my presence, this 3<sup>rd</sup> day of  
June, 2011.



TERRILYNNE B. SMILES  
ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
My Commission Has No Expiration  
Section 147.03 R.C.



out to receive Reading/Writing Intervention. His teacher expressed to me that this was not due to any reading and writing difficulties but due to the fact that she believed the classroom was too noisy for <sup>Student</sup> G" and that he would tend to wander around during instruction. Based upon <sup>Student</sup> G"'s Ohio Achievement testing scores, I enrolled him in Sylvan for tutoring services as he continued to struggle with reading. He completed over 100 hours of tutoring through Sylvan Tutoring, but continued to have difficulty with oral fluency and decoding. To my knowledge, during this time, his progress in the Reading/Writing Intervention program was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how <sup>Student</sup> G" was responding to the intervention services or the results of these interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding "Student G"'s progress.

5. In fourth grade, the District's response to <sup>Student</sup> G"'s ongoing reading deficits was to place him with a teacher who utilizes general education interventions and who had a master's degree in reading education so <sup>Student</sup> G" could receive the "boost" he needed to achieve. He also continued to be pulled out for Reading/Writing Intervention as, according to his teacher, the District was hoping that if he was in a quiet room he could focus and get more out of reading instruction. The interventions were not successful. To my knowledge, during this time, his progress in the Reading/Writing Intervention program was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how <sup>Student</sup> G" was responding to the intervention services or the results of these interventions. The District never asked to meet with us to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> G"'s progress.

6. At <sup>Student</sup>G''s fifth grade mid-year parent-teacher conference, I continued to express concerns regarding his difficulties in reading. I was told by his teachers that <sup>Student</sup>G''s deficits were a "boy thing" and that "he doesn't care" about his academics; however, after this conference, his science teacher approached me privately and advised me to have him tested to see whether or not he was a child with a disability.
7. In Spring 2009, <sup>Student</sup>G'' scored in the Basic range (389) on his 5<sup>th</sup> Grade Ohio Achievement Test. He was "below proficient" in acquisition of vocabulary, reading process, and literary text, and scored "near proficient" in informational text. He was not proficient or above proficient in any area of Reading. Based upon these scores, <sup>Student</sup>G''s teachers continuously indicated that he could not focus, and <sup>Student</sup>G''s science teacher indicating that he might be a child with a disability, I had <sup>Student</sup>G'' privately evaluated by William B. Benninger, Ph.D., a psychologist who specializes in the treatment of Attention Deficit Hyperactivity Disorder. The results of this evaluation indicated that <sup>Student</sup>G'' did not have Attention Deficit Hyperactivity Disorder, but that his performance in Word Reading and Pseudoword Decoding were in the low average range and approximately 2-3 years behind grade level. His performance in Reading Comprehension was in the average range.
8. Based on Dr. Benninger's evaluation, we had <sup>Student</sup>G'' privately tested by Susan Nittrouer, Ph.D., from The Ohio State University Medical Center, Department of Otolaryngology, in May 2009. The results of her testing confirmed that <sup>Student</sup>G'' struggles in terms of reading because he does not have a clear understanding of phonemic structure.
9. At the end of <sup>Student</sup>G''s fifth grade year, I shared the results from Dr. Benninger's and Dr. Nittrouer's assessments and my concerns with Tremont Elementary School's Principal. The Principal responded by stating that he would arrange for the school's Orton-



Gillingham tutor, Ms. Witherow, to meet with <sup>Student</sup> G" and assess his abilities. Ms. Witherow met with <sup>Student</sup> G" on one occasion, conducted one assessment (the Diagnostic Reading Assessment (DRA)), and determined that <sup>Student</sup> G" was not eligible for reading intervention because his reading comprehension scores were at grade level, despite scores of two years below grade level in word recognition, spelling and knowledge of word meaning. Recognizing that <sup>Student</sup> G" needed reading intervention, I asked her if she would privately tutor <sup>Student</sup> G" over the summer. As Ms. Witherow did not have room in her schedule to tutor <sup>Student</sup> G", I proceeded to secure tutoring with a private tutor.

10. Despite the results of Dr. Benninger's and Dr. Nittrouer's assessments and my expressed concerns regarding <sup>Student</sup> G"'s reading abilities, the District did not offer to conduct an Evaluation, nor did they call an Intervention Assistance Team meeting. I was, however, notified by the Principal of Tremont Elementary that he and an Intervention Specialist would write an intervention plan to allow <sup>Student</sup> G" additional time for tests and classroom assignments with lengthy reading portions. Neither my husband nor I was invited to participate in developing the plan. The plan was drafted and placed in his cumulative file and a copy was sent home in <sup>Student</sup> G"'s backpack.

11. During the Summer of 2009, my husband and I continued to provide <sup>Student</sup> G" with private tutoring in Orton-Gillingham one day per week based upon a recommendation from Upper Arlington. This tutoring continued through May 2011.

12. When <sup>Student</sup> G" entered Jones Middle School, I reviewed the testing conducted by Dr. Benninger and Dr. Nittrouer with the Principal and <sup>Student</sup> G"'s teachers at an Intervention Assistance Team meeting on September 14, 2009. The team referred <sup>Student</sup> G" for additional assessments of written language and phonological processing skills, but did not offer to

conduct an Evaluation Team Report. The results of the additional assessments showed that <sup>Student</sup> G" performed in the low average range in phonological awareness, rapid naming, and alternative rapid naming. The District also assessed <sup>Student</sup> G"'s written language, even though that was not an area of concern. His skills in that area were in the average range. As a result of this assessment, the staff offered <sup>Student</sup> G" participation in three semesters of a reading program in place of his foreign language requirement. No intervention strategies were discussed or agreed upon, no progress monitoring occurred, and no meetings were held to assess the effectiveness of the intervention. The reading program was ineffective for <sup>Student</sup> G" .

13. In May 2010, I again had <sup>Student</sup> G" assessed by Dr. Nittrouer. As with her previous assessment, she again concluded that <sup>Student</sup> G" 's deficits in phonemic structure were adversely impacting his reading and language abilities.

14. At the start of <sup>Student</sup> G" 's seventh grade year, Fall 2010, having had no success in persuading the District to provide the services that <sup>Student</sup> G" needs, I hired an advocate to represent my child. The District finally agreed to conduct an Evaluation Team Report (ETR). The results of the ETR indicated <sup>Student</sup> G" was a child with a speech or language impairment with additional deficits in the areas of reading, language processing, processing speed, reading comprehension, and irregular language. At the ETR review meeting, although we felt that <sup>Student</sup> G" 's processing speed deficit in his general intelligence led to classification as a child with a Specific Learning Disability, the District disagreed. After significant discussion, and in an effort to work with the District, we agreed that <sup>Student</sup> G" could be found eligible as a child with a disability in the area of Speech or Language Impairment.

15. As of January 12, 2011, <sup>Student</sup> G" began receiving specialized instruction and related services

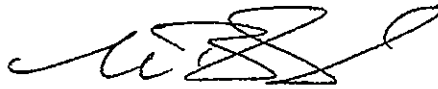
through an Individualized Education Plan.

16. During <sup>Student</sup> G''s third and fourth grade years, we were never invited to a meeting to learn about or discuss the Reading Interventions being offered by the District or why they were being offered.
17. During <sup>Student</sup> G''s third through sixth grade years, we never received any progress reports or data indicating how <sup>Student</sup> G'' was responding to the intervention services or the results of the interventions.
18. During <sup>Student</sup> G''s third through sixth grade years, the district never sought to refer <sup>Student</sup> G'' to the Intervention Assistance Team process, never indicated that he might be a student with a disability, and never referred him for an initial evaluation.

FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Student G"

SWORN TO BEFORE ME, and subscribed in my presence, this 1<sup>st</sup> day of June, 2011.



TERRI-LYNNE B. SMILES  
ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
My Commission Has No Expiration  
Section 147.03 R.C.



with Disabilities Act. He was provided with a Section 504 educational plan.

6. From October 2008 through the end of the 2009-10 school year, until <sup>Student</sup> F" enrolled in Marburn Academy, the District was obligated to provide a free appropriate public education to <sup>Student</sup> F" under his 504 plan.
7. Also from October 2008 through the end of the 2009-10 school year, the District received several assessments, letters from doctors, reports from teachers, and evaluations indicating that <sup>Student</sup> F" experienced academic and behavioral difficulties as a result of his diagnoses of ADHD and Dyslexia. I provided <sup>Student</sup> F"'s educational team with copies of these assessments, letters and reports. The team refused to further evaluate <sup>Student</sup> F" or reconsider his eligibility for an Individual Education Plan under IDEA.
8. During the time frame of October 2008-June 2010, <sup>Student</sup> F"'s academic needs intensified and he was failing a majority of his general education coursework. He also manifested oppositional behavior more frequently at school and in private therapy. Dating from January 2009-January 2010, <sup>Student</sup> F" was given 22 after school detentions or Saturday school assignments as a result of his absences. Finally, Upper Arlington reported <sup>Student</sup> F" truant at the end of the 2009-10 school year, when he stopped attending school during the last 10 weeks of school.
9. According to <sup>Student</sup> F"'s private psychiatrist, his truancy was likely caused by profound frustration with regard to his ADHD and Dyslexia. At the time, <sup>Student</sup> F" expressed feeling hopeless and overwhelmed by the demands of the high school.
10. While <sup>Student</sup> F" was on his 504 Plan, I requested meetings with his team in October 2009 and in March 2010 to discuss the effectiveness of his interventions, particularly as it relates to his Dyslexia, and to reiterate my continued concerns regarding his lack of progress,

repeated disciplinary referrals and my belief that he was a child with a disability who qualified for and Individualized Education Plan. The District continued to opine that <sup>Student</sup> "F" 's dyslexia was not significant to impair his learning and that it was simply his absences that were to blame for his failing marks. Despite my frequent appeals to evaluate <sup>Student</sup> "F", and the existence of his diminishing ability to cope with school, the District failed to consider another evaluation for special education.

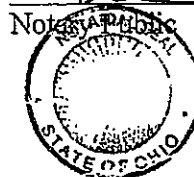

11. The District never included <sup>Student</sup> "F" in specialized instruction to address his dyslexia or collect response to intervention data to determine if his dyslexia had an adverse impact on his educational performance.
12. As of today, the District, despite advice from the Ohio Department of Education to the contrary, continues to refuse to evaluate <sup>Student</sup> "F" for eligibility as a child with a disability. A complaint is pending with the Office for Exceptional Children on their denial, received May 13, 2011, to conduct an evaluation. At this point, in August, 2011, <sup>Student</sup> "F" will be returning to the Upper Arlington High School without adequate services to meet his needs.

FURTHER AFFIANT SAYETH NAUGHT,

Parent of Student "F"

SWORN TO BEFORE ME, and subscribed in my presence, this 1<sup>st</sup> day of

June, 2011.



TERRI-LYNNE B. SMILES  
ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
My Commission Has No Expiration  
Section 147.03 R.C.



interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> "E"'s progress.

7. At the beginning of his first grade year, <sup>Student</sup> "E" was again identified to receive intervention services based upon an assessment of his literacy skills and information from his classroom teacher. It was stated that he needed support with early literacy skills. As such, it was recommended he participate in the Reading/Writing Intervention program. In February of the same school year, we received another letter indicating that based upon literacy skill assessments and information from his classroom teacher, it was recommended that <sup>Student</sup> "E" participate in the Reading Recovery Program during second semester. Besides the letter we received from the District, we did not received further explanation as to why <sup>Student</sup> "E" was being recommended for a different program nor did anyone ask to meet with us to discuss <sup>Student</sup> "E"'s progress or lack thereof. We never received any information indicating why one intervention was selected over another, the frequency and intensity with which <sup>Student</sup> "E" would receive the programming, or what specific literacy objectives would be targeted for <sup>Student</sup> "E" during the interventions. To my knowledge, his progress in either group was not charted, measured or otherwise assessed. We never received any progress reports or data indicating how <sup>Student</sup> "E" was responding to this intervention services or the results of the interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> "E"'s progress.

8. During his second grade year, <sup>Student</sup> "E" was again identified to receive intervention services for reading. He received group instruction in the Wilson Language Program four times per week for forty minutes each session. The teacher providing services was not



adequately trained in the program to provide it. I received one progress report which denoted his scores on the Diagnostic Reading Assessment (DRA), hearing sounds in words, sitton spelling and high frequency words from the beginning of first quarter. This report also indicated his high frequency word score from the end of the quarter. To my knowledge, no other progress data in this group was not charted, measured or otherwise assessed. We never received any information indicating why this intervention was selected or what specific literacy objectives would be targeted for <sup>Student</sup> "E" during the intervention. We never received any additional progress reports or data indicating how <sup>Student</sup> "E" was responding to this intervention service or the results of the interventions. The District never asked to meet with use to discuss the interventions or to share intervention data with us regarding <sup>Student</sup> "E" 's progress.

9. During his third grade year, <sup>Student</sup> "E" was identified to continue receiving intervention services for reading. This year, however, the District placed him in 1:1 instruction with an intervention specialist utilizing the Orton-Gillingham program. He received 1:1 instruction three times per week for forty to fifty minute session and received instruction in a small group (1 teacher:2 students) one time per week for forty to fifty minutes. We received a quarterly written progress report outlining <sup>Student</sup> "E" 's progress as measured by informal reading inventories and district criterion-referenced assessments. The District never asked to meet with us to discuss the interventions or to determine if the interventions were leading to progress.

10. When <sup>Student</sup> "E" was placed in 1:1 instruction with the Orton-Gillingham program I asked the intervention specialist why he was recommended to receive 1:1 instruction. I was told "it helps kids like your son." When I asked what that statement meant, I did not receive a

response.

11. During his third grade year, despite four years of "intervention services," <sup>Student</sup> "E" failed to pass the Ohio Achievement Assessment in math and reading after taking each test twice.
12. At the beginning of <sup>Student</sup> "E" 's fourth grade year, for the fourth year in a row, we received a letter from Upper Arlington's "Literacy Team" that <sup>Student</sup> "E" "would benefit from Reading/Writing Intervention" in either a "pullout small group setting or in the classroom."
13. I requested a meeting with Melissa Gordon, Director of Pupil Services. The meeting was held at Barrington Elementary School, and when I arrived, the District conducted the meeting as an Intervention Assistance Team meeting. I was not notified prior to entering the meeting that it would be an Intervention Assistance Team meeting.
14. At this meeting, I expressed concerns that <sup>Student</sup> "E" may be dyslexic. District staff did not respond to my statement, but agreed to conduct an Evaluation to determine whether or not <sup>Student</sup> "E" was a child with a disability. This was the first meeting that I attended at the District to review the interventions provided to <sup>Student</sup> "E", and their effectiveness or lack thereof, over the past three years.
15. The results of his Evaluation Team Report indicated <sup>Student</sup> "E" was a child with a specific learning disability in the areas of reading and math.
16. As of December 14, 2010, <sup>Student</sup> "E" is now receiving specialized instruction and related services through an Individualized Education Plan.
17. During <sup>Student</sup> "E" 's kindergarten, first, second and third grade years, we were never invited to a meeting to learn about or discuss the Reading Interventions being offered by the District or why they were being offered.

18. During <sup>Student</sup> E's kindergarten, first, second and third grade years, the district never sought to refer <sup>Student</sup> E to the Intervention Assistance Team process, never indicated that he might be a student with a disability, and never referred him for an initial evaluation.

FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Student E"

SWORN TO BEFORE ME, and subscribed in my presence, this 1<sup>st</sup> day of June, 2011.



Notary Public



TERRI-LYNNE B. SMILES  
ATTORNEY AT LAW  
NOTARY PUBLIC, STATE OF OHIO  
My Commission Has No Expiration  
Section 147.05 R.C.

**OHIO DEPARTMENT OF EDUCATION  
OFFICE FOR EXCEPTIONAL CHILDREN**

In the Matter of

)  
)  
)  
)  
)  
)

**Complaint**

**Affidavit in Support of Complaint**

State of Ohio

)

) ss:

County of Franklin

)

NOW COMES AFFIANT, <sup>Parent of Student B</sup>, being first duly sworn in accordance with law, deposes and states as follows:

1. My name is <sup>Parent of Student B</sup> and I am a resident of Upper Arlington, Ohio. I have personal knowledge of all matters set forth herein.
2. My daughter, <sup>Student B</sup>, currently attends Barrington Elementary School, a school in the Upper Arlington School District.
3. <sup>Student B</sup> is ten years old and is currently a third grade student.
4. <sup>Student B</sup> began exhibiting difficulties with her language development during preschool. As a result, her preschool teacher, at First Community Church, referred her for Speech and Language assessments due to delays in the areas of word retrieval, grammar usage, and an inability to learn her letters and numbers. I also had her auditory processing and communicative functioning assessed by the Kaufman Children's Center. Based upon this testing, <sup>Student B</sup> was diagnosed with an auditory-linguistic processing and retention disorder. It was also noted that she had difficulty with concept learning and development and word retrieval with a possibility of an underlying learning disability. Additionally, the evaluation recommended a full cycle educational evaluation to determine whether she

would qualify as a student with a learning disability. I provided these assessments to "Student B"'s teachers prior to her start in Barrington.

5. During the beginning of her kindergarten year at Barrington, 2007-08 school year, we requested that "Student B" be provided with intervention services based upon the results of the private testing we had shared with the District. In response to this request, the Intervention Assistance Team met and drafted an Intervention Assistance Team Plan in October 2007. This Plan, however, did not identify staff responsible for its implementation and did not provide any scientific, research-based interventions. Instead, the plan stated "Student B" would be given a concept assessment, that "Student B" would use the Earobics computer program and that the Intervention Assistance Team will monitor "Student B"'s eligibility for the phonemic awareness group. In discussions regarding "Student B"'s use of the Earobics computer program, school team members suggested that it would be less intrusive to "Student B"'s school schedule if we purchased the program for "Student B" to use at home. Following this suggestion, my husband and I immediately purchased Earobics for "Student B"'s use at home.
6. The Intervention Assistance Team met again in April 2008. At this meeting, it was reported that "Student B" was exhibiting numerous difficulties and not making adequate progress. It was also reported that "Student B" was receiving "interventions," with no additional information provided to me and my husband, twice a week for 30 minutes each session. There was no coordination from the District to monitor "Student B"'s progress in the Earobics program. The only monitoring technique the District employed was for "Student B" to complete a sheet indicating the number of minutes she spent using the program at home for which she would receive a prize. We were given no information about the methods, techniques,

programs or interventions being used. Furthermore, the Intervention Assistance Team Plan stated, "IAT concurs that <sup>Student</sup> B" demonstrates behaviors consistent with dyslexic profile. Team recommends placement in Orton-Gillingham program next year with Mrs. McGraw (typically 3-5x/wk., for approximately 30 minutes)." Despite indicating that the team concurred that <sup>Student</sup> B" demonstrated behaviors consistent with Dyslexia, and, over the course of the prior six months had not made adequate progress or responded to her interventions, the District never referred her for an Evaluation Team Report to determine whether she was a child with a disability.

7. In an effort to provide a coordinated intervention to address <sup>Student</sup> B" 's language-based learning disabilities, my husband and I withdrew <sup>Student</sup> B" from Upper Arlington Schools and enrolled her at Marburn Academy, a private school for children with ADHD and learning disabilities, for first grade.
8. <sup>Student</sup> B" attended Marburn Academy for first and second grade.
9. While attending Marburn Academy, <sup>Student</sup> B" was assessed by the Columbus City School District in May 2010 and found eligible for special education services. Due to <sup>Student</sup> B" 's continuing language processing and academic deficits, and her difficulty with social isolation from her neighborhood peers, my husband and I decided to pursue special education services with the Upper Arlington City Schools and re-enrolled <sup>Student</sup> B" for the 2010-11 school year at Barrington Elementary School.
10. Per the results of the May 2010 Evaluation Team Report completed by Columbus City School District, Upper Arlington identified <sup>Student</sup> B" as a student with a disability, and on June 8, 2010, an IEP meeting was held for <sup>Student</sup> B" .
11. <sup>Student</sup> B" returned to Upper Arlington City School District at the beginning of the 2010-11

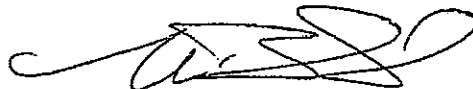
school year.

12. During <sup>Student</sup> B's Kindergarten year at Upper Arlington, the District never referred her for an initial evaluation despite their own intervention team report indicating that she presents with behaviors consistent with dyslexia.

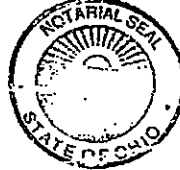
FURTHER AFFIANT SAYETH NAUGHT,

"Parent of Student B"

SWORN TO BEFORE ME, and subscribed in my presence, this 2<sup>5<sup>th</sup></sup> day  
of June, 2011.



Notary Public



**TERRI-LYNNE B. SMILES**  
**ATTORNEY AT LAW**  
**NOTARY PUBLIC, STATE OF OHIO**  
**My Commission Has No Expiration**  
**Section 147.03 R.C.**