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**GEORGIA DEPARTMENT OF EDUCATION FINDS THAT SAVANNAH PUBLIC
SCHOOLS VIOLATED THE EDUCATIONAL AND CIVIL RIGHTS OF 4,000
DISABLED STUDENTS**

Savannah, GA (February 14, 2021) – The Georgia Department of Education (GaDOE) issued a decision letter on February 12, 2021 finding the Savannah-Chatham County Public School System (SCCPSS) out of compliance with the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 *et seq.*). Approximately 4,000 students in the district are eligible for special education and receive educational instruction, supports, and services under the IDEA.

The Sullivan Law Firm in Savannah, Georgia filed a formal complaint against SCCPSS on October 9, 2020 outlining how SCCPSS violated the educational and civil rights of most, if not all, of its 4,000 disabled students since school started for the 2020-2021 school year.

The GaDOE sustained the complaint by finding, regardless of COVID-related educational disruptions, that:

1. SCCPSS has not complied with federal law regarding placement for disabled students because SCCPSS did not allow IEP teams to consider and plan for all components of students' educational needs during periods of full distance/remote instruction. One example of how SCCPSS violated the law in this regard is by prohibiting or discouraging requests for in-person educational services that are either required by the student's IEP or could increase the likelihood that the student will make progress in a full distance/remote instruction environment. (34 C.F.R. § 300.116);
2. SCCPSS has not complied with federal law requiring prior written notice of placement decisions to parents of disabled students. (34 C.F.R. § 300.50); and,
3. SCCPSS has not complied with federal law requiring that each disabled student in the district receive a Free Appropriate Public Education (FAPE) under the IDEA (34 C.F.R. §§ 300.101 and 300.17).

SCCPSS has, therefore, been ordered to notify parents of all students with IEPs that (a) SCCPSS was found to be out of compliance with federal and state special education rules and regulations and (b) offer parents a meeting to review and revise their student's IEP in light of these findings. The GaDOE must approve this letter before SCCPSS can send it to parents.

Parents who are interested in learning more about The Sullivan Law Firm's community outreach in response to GaDOE's findings can use this link to be added to our mailing list:
<https://forms.gle/4SFTihcJKb7C4k1j8>.

The GaDOE made its findings after reviewing education records for 57 students enrolled in the district. Fifty-one (51) of those students were chosen randomly by GaDOE. The records of the other six (6) students were used as examples in support of the October 9, 2020 complaint.

Parents of some of these fifty-seven (57) students can expect to receive direct communication from SCCPSS. In its Formal Complaint Resolution, GaDOE ordered SCCPSS to make certain changes and address specific concerns regarding the plans created for some of these students.

The GaDOE found that the unilateral determination to implement full time virtual learning was not *per se* predetermination, as that term is used under the IDEA. The GaDOE will, however, train SCCPSS staff and personnel on recognizing a change in placement and how to make sure the SCCPSS honors the IDEA's procedural and substantive protections when changing placement.

The IDEA is a federal law enacted to assure "that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living." See 20 U.S.C. § 1400(d). Disabled students who are eligible for special education are guaranteed a free appropriate public education (FAPE) under the law. Each student receives a written Individualized Education Program (IEP) developed by a team made up of people who are knowledgeable about the student's learning needs, such as educators, specialists, and the student's parents (the IEP team).

Deciding on what FAPE means for a particular student and developing an IEP meant to provide that student a FAPE is a complicated process that looks at a variety of educational factors, including where, how, and by whom the student will be taught. The goal is to make sure that the student can be involved in and make educational progress, both within the curriculum and on specific goals described in the IEP.

Parents must continue to be informed that:

- They have a right to be a part of the process (not question whether they are or not);

- Their students have a right to a FAPE irrespective of the fact that we are living through a pandemic; and,
- They can assert their rights against the district if FAPE is not being provided.

There has been a clear lack of planning that takes place for students with disabilities at every level. This is not only a problem during a pandemic. This is a problem rooted in ableist sentiments and attitudes. The now overused adage of “unprecedented times” falls flat for families raising students with disabilities. Many families are inured to being left out of the discussion. Many families are resigned to not being invited to the table. This directly impacts how these children grow up, and how they internalize whether or not they are worthy enough to belong. These unprecedented times are not normal for anyone, but for families raising children with disabilities, this battle for services, supports, and inclusion feels all too familiar. This is about more than following the law. This is about where our values lay.

The Sullivan Law Firm is grateful for all of the friends and colleagues who have assisted and supported us in pursuing this complaint, as well as continuing the work generated from this decision. The Sullivan Law Firm would like to specifically thank the Georgia Coalition for Equity and Education for support and technical guidance in crafting the October 9, 2020 complaint.

While this Formal Complaint Resolution from the GaDOE is welcome reminder that COVID-related disruptions cannot override the obligation to uphold the civil rights of disabled students and their families, this is only one step forward on a long and winding road towards justice and inclusion for these students and their families. There remains much work to be done

About The Sullivan Law Firm

The Sullivan Law Firm provides advice, counsel, and representation for clients needing help with estate planning, probate, and special education law matters. Attorney, Julia H. Sullivan, is a member of the Council of Parents Attorneys & Advocates (COPAA), the Academy of Special Needs Planners, and the National Academy of Elder Law Attorneys (NAELA). She is licensed to practice law in Georgia and California. Education Advocate, Erin O. Roma, is a social worker who assists families in navigating the special education world. She is also a member of COPAA. Our office is located in downtown Savannah, Georgia.