

DEVELOPMENTAL DISABILITIES CONSULTATION
Report issued on June 8 2012



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01. Background of Developmental Disabilities Consultation:

I have been retained by plaintiffs' counsel to provide opinions on certain issues related to P.V., et al., v. The School District of Philadelphia, et al., E.D. Pa. Civil Action No. 2:11-cv-04027. These issues include:

- a. Difficulty of children with autism spectrum disorders (ASD) adjusting to change in their environment and with transitions more generally. My focus was on children with ASD attending kindergarten to grade 8 levels of educational placement;
- b. Consequences of unplanned transitions upon these children's learning ability and rate, and on behavioral challenges typically associated with their condition;
- c. The role of planning and preparation toward transitions and, more generally, principles and standards known to attenuate deleterious effects of change and transitions; and
- d. The role of parents in the management of transitions, and more generally, principles and standards associated with parental involvement in the establishment of Individualized Education Programs (IEP) and their implementation.

My opinions, which are set forth more fully below, can be summarized as follows: Based on my personal clinical experience, substantial literature reviewed, and the materials made available to me on this case - with a reasonable degree of certainty and within the limitations also described below - the School District's practices associated with the transitioning of children with ASD from one educational setting to another appear to be inconsistent with best practices and standards, and not appropriate. There is concern that procedures for transitioning special education children with ASD (1) do not reflect adequate parental involvement, and (2) are not evaluated fully or managed proactively in compliance with the spirit of the relevant statutes and in accordance with consensual, clinical science directives.

The presentation of my opinions is organized in terms of the following order of topics: a brief description of autism spectrum disorders, and of specific issues related to change in their environment and transitions generally; potentially deleterious impact of change and transitions on these children's learning performance and behavioral patterns; principles and standards for management of transitions; the relationship between management of

transitions and the IEP process; and the role of parental involvement in the IEP process.

For the expression of my opinions I rely on my personal clinical experience, on pertinent clinical science literature found in peer-review publications, on compilations of principles and standards of educational programming assembled by experts under the auspices of authoritative agencies charged with review and evaluation of extant clinical science literature on behalf of the community of clinical scientists, clinical service providers, educational professionals, and families impacted by ASD, on pertinent statutes and regulations, and information provided by plaintiffs' counsel as listed below.

My personal experience comes from a 27-year history of involvement in clinical service provision and clinical investigation of ASD, beginning in graduate school in London (1983-1988; PhD work at the Medical Research Council, Cognitive Development Unit, University of London; National Autistic Society and associated special schools for children with ASD, London and environs; Lauriston Road Residential Unit for Adults with Developmental Disabilities, Hackney, London), Autism Program at the Yale Child Study Center, Yale University School of Medicine (1989-2010; Post-doctoral fellowships, Professor and Director of Autism Program), and the Marcus Autism Center, Children's Healthcare of Atlanta and Division of Autism & Developmental Disabilities at Emory University School of Medicine (2011-present; Director, Professor & Division Chief).

The 2 main authoritative compilations of principles and standards defining appropriate educational programming for children with ASD relied upon in this report are:

- 1) The report issued by the National Research Council, Committee on Educational Interventions for Children with Autism (NRC, 2001). This committee was convened because of consensus that education, both directly of children, and of parents and teachers, is the primary form of treatment for ASDs. The education of children with ASD was accepted as a public responsibility under the Education for All Handicapped Children Act in 1975. At the request of the US Department of Education's Office of Special Education Programs, the National Research Council formed the Committee on Educational Interventions for Children with Autism and charged the committee to integrate the scientific, theoretical, and policy literature and create a framework for evaluating the scientific evidence concerning the effects and features of educational interventions for children with autism. Their primary charge focused on early intervention, preschool, and school programs designed for children with autism from birth to age 8. The charge included, among others, the rights of children with autism under the Individuals with Disabilities Education Act (IDEA). This publication reviews the evidence and expresses conclusions and recommendations.
- 2) The report issued by the National Autism Center through their National Standards Project addressing the needs for evidence-based practice guidelines for ASD (NAC, 2009). This project was undertaken to compile and evaluate the evidence of treatment

and intervention practices for individuals with ASD. This project included review of 775 intervention studies conducted from 1957 to 2007.

In addition, a sample of peer-review research pertinent to the questions addressed in this report was utilized to substantiate specific points addressing the questions of this consultation.

I am compensated at the rate of \$500 per hour for my study and testimony in this case. My hourly rate is not contingent on my opinions in this matter.

02. Documents Provided by Plaintiffs' Counsel:

The following documents were provided by plaintiffs' counsel and reviewed by this consultant:

- # 01: Complaint, P.V., et al., v. The School District of Philadelphia, et al., dated June 20, 2011;
- # 02: Exhibit A to Complaint, Decision and Order P.V. Case, dated April 15, 2011;
- # 03: Exhibit B to Complaint, Decision and Order M.M. Case, dated April 15, 2011;
- # 04: Memorandum by Court, denying Defendants' motion to strike and motion to dismiss, dated October 31, 2011;
- # 05: Defendants' Answer to Complaint, dated November 14, 2011;
- # 06: Declaration of Linda Williams, Deputy Chief of OSIS, dated February 27, 2012 (OSIS: Office of Specialized Instructional Services);
- # 07: Chart, DEF000993, produced by Defendants in discovery on February 10, 2012 (students with autism 2008 – 2012);
- # 08: Special Education Facilities Master Plan, DEF006473, dated January 14, 2011, produced by Defendants in discovery on March 22, 2012;
- # 09: Office of Specialized Instructional Services, Upper Level Transfers for September 2011, DEF006472, dated February 2, 2011;
- # 10: Excerpt of Hearing Transcript, including testimony of Cathy Rocchia-Meier and Leah Taylor, dated December 10, 2010;
- # 11: Excerpt of Hearing Transcript, including testimony of Leah Taylor, dated February 3, 2011;
- # 12: Excerpt of Hearing Transcript, including testimony of Maria Monras-Sender, dated February 4, 2011;
- # 13: Excerpt of Hearing Transcript, including testimony of Carla Murphy and Maria Monras-Sender, dated February 9, 2011;
- # 14: A teacher's note received by the parent of a putative class member, PLF03037, dated May 9, 2011;
- # 15: A letter received by the parent of a putative class member, PLF03038-39, dated July 1, 2011;
- # 16: Deposition Transcript of Heather Sanasac, dated April 3, 2012;
- # 17: Deposition Transcript of Kim Hunt, dated May 11, 2012;
- # 18: Deposition Transcript of Matthew Sanasac, dated April 3, 2012;
- # 19: Deposition Transcript of Maria Monras-Sender, dated May 10, 2012;
- # 20: Deposition Transcript of Linda Williams, dated May 21, 2012;
- # 21: Deposition Transcript of Sharon Vargas, Parts I and II, April 6, 2012 & May 18, 2012;

- # 22: Deposition Transcript of Yolanda Cruz, dated April 12, 2012;
- # 23: Deposition Transcript of Jane Cordero, dated May 15, 2012;
- # 24: Deposition Transcript of Cathy Roccia-Meier, dated May 16, 2012;
- # 25: Deposition Transcript of Cecelia Thompson, dated May 17, 2012;
- # 26: Deposition Transcript of Lovlei L. McKinnie, dated May 18, 2012.

03. Autism Spectrum Disorders and Problems with Transitions:

Difficulties with Transition as a Defining Feature of Autism:

Autism Spectrum Disorders (ASDs) are a family of highly prevalent neurodevelopmental disorders of strongly genetic origins, which are marked by impairments in social and communicative functioning, imagination and play, as well as repetitive behaviors, and narrow interests and rigidities (Volkmar et al., 2005). There is great heterogeneity in the behavioral manifestation of ASDs, covering the entire IQ range (from profound intellectual disability to the gifted range), language range (from nonverbal to highly verbal), and social and communicative ability range (from profoundly aloof to frequent but intrusive and non-reciprocal approaches). Despite the tens of genes already implicated in their etiology, ASDs are a well-defined syndrome (Jones & Klin, 2009) and amongst the most well-studied and reliably diagnosed of all psychiatric disorders (Volkmar et al., 2004; Lord et al., 2012).

From the time of its first description by Leo Kanner (Kanner, 1943), there has been emphasis on the rigidities displayed by children with ASD. In fact, in his description Kanner emphasized the profound social and communicative disability (hence the Greek term “autism”), and a cluster of behaviors that he captured under the term “insistence in sameness”. This term referred to what now corresponds to the third cluster of defining symptoms of autism in DSM-IV and ICD-10 (Volkmar et al., 1994) – “Restricted repetitive and stereotyped patterns of behavior, interests and activities” as manifested by encompassing preoccupations with stereotyped and restricted patterns of interest, compulsive adherence to specific, nonfunctional routines or rituals, stereotyped and repetitive motor mannerisms, and persistent preoccupation with parts of objects. These defining features of autism encompass a wide range of challenges typically displayed by children with ASD. Their “insistence in sameness” means that they have difficulty with changes in their environment (e.g., minor changes in familiar places or people), routines (e.g., changes in daily schedules), learned sequences of behavior and activity (e.g., unexpected alteration of a learned sequence), relationships (e.g., changes in caregiving or educational staff), among many aspects of their daily lives (Volkmar, Klin, Schultz & State 2009). And although the specific expressions of these rigidities vary from child to child, and typically takes different manifestations associated with the child’s intellectual skills (Klin et al., 2007), it is virtually universal among all individuals with ASD, though varying individually in terms of intensity and disruptive impact on daily lives of the children, at school and at home. In school life, these challenges typically impact on their ability to maintain attention without external structure and/or supports, preference for only one or a few activities (and resistance to engage in others), difficulty with transitions, changes in routine and unexpected events, difficulty moving from one activity to another, and failure to pick up on the “gist” of a situation or activity

and consequent expressions of confusion and disruptive reactions (e.g., tantrums) (Olley, 2005). The current definition of ASD in the IDEA regulations is: “Autism means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three, that adversely affects a child’s educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences”. (34 CFR § 300.8(c)(1); see also autism in DSM-IV and ICD-10 (Volkmar et al., 1994)). In the proposed DSM-5 criteria for ASD (APA, 2011), Criterion # 2 of Cluster B states “Excessive adherence to routines, ritualized patterns of verbal or nonverbal behavior, or excessive resistance to change (such as motoric rituals, insistence on same rote or food, repetitive questioning or extreme distress at small changes)”.

Difficulties with Transition and Problem Behaviors:

Problem behaviors of children with ASD are among the most challenging and stressful issues faced by schools and parents in their efforts to provide appropriate educational programs (NRC, 2001). Problem behaviors, ranging from tantrum, to physical aggression, self-injury and property destruction are major barriers to effective social and educational development (NRC, 2001). Such behaviors put young children at risk for exclusion and isolation from social, educational, family and community activities. Concerns about school behavior problems led to new standards and procedures for discipline, student suspension, and expulsion in the 1997 amendments to the IDEA. Specifically, the regulations include provisions for the use of functional behavioral assessments and positive behavioral interventions and support.

Understanding what causes these problem behaviors to emerge and what maintains them, and what evokes their moment-to-moment expression has been the subject of a large number of research studies (NRC, 2001; Berkson & Tupa, 2000). This area of research is critical because once moderate to severe problem behaviors become an established part of a child’s repertoire, children with ASD do not usually outgrow them without appropriate intervention, and they may worsen (Schroeder et al., 1986). Typical behavioral challenges include aggression, destruction of property, disruption of activities, self-injury, stereotypic behavior, and inappropriate verbal behavior (NRC, 2001).

While some of these behaviors, and particularly repetitive and stereotyped behaviors as well as self-injurious behaviors, may have constitutional origins (i.e., organicity) (Symons et al., 1999; Lewis, 1996; Thompson et al., 1995), research on educational interventions for problem behaviors has revealed specific triggers and/or ‘exacerbators’ of disruptive behaviors in children with ASD. Not unlike the finding by the School District involved in this case, which conducted a functional behavior assessment (FBA) and concluded that transitions that are unexpected can trigger outbursts (e.g., Exhibit A to Complaint, Decision and Order P.V. Case, para. 19, dated April 15, 2011), the literature on problem behaviors and their adequate management in school settings has also focused on the impact of unexpected change and transitions on behavioral patterns of children with ASD (e.g., Schreibman et al., 2000; Dettmer et al., 2000; Briody & McGarry, 2005). As a result of the consensus emerging from this

literature, the vast majority of evidence-based treatments provide procedures for managing transitions, from activity to activity, from setting to setting, and from period of instruction to period of instruction (shorter or longer periods of time) (NRC, 2001). While this focus existed in special, model treatments since the early 1970's, with IDEA's directives of Free Appropriate Public Education (FAPE) in Least Restrictive Environments (LRE), and the resulting access gained by children with ASD to regular school setting, there was renewed interest in teaching children with ASD to transition smoothly across educational activities and settings (Wolery et al., 1998a, b; 2002). The importance of this topic is summarized in a volume by Rous & Hallam (2006). This work, in this volume as well as more globally, as summarized in the consensual conclusions of the National Research Council (NRC, 2001), focuses not only on child-specific recommendations, but also on institutional ones, as the collaborative engagement of schools and their personnel is thought to be cardinal elements of effective procedures for managing transitions of children with ASD.

When addressing disruptive behaviors by students with ASD, The NRC executive summary built on a vast and growing literature (e.g., Dawson & Osterling, 1997; Rogers, 1998), bringing attention to elements of educational programming that need to be addressed in order to contextualize, and better manage, the challenges of these students (NRC, 2001). Among these are: highly supportive teaching environments and generalization strategies; predictability and routine; a functional approach to problem behaviors; plans for transition from classrooms; and family involvement. Echoing a time in which children's disruptive behaviors were discussed without a discussion of the educational environment and supports, the committee stated that "Programs that do not include these features should be re-evaluated for suitability before discussing the 'suitability' of the disruptive student" (p. 120).

Subsequent task forces in the US and in other countries made the same conclusions and recommendations. Attention to the management of transitions was emphasized in educational literature (e.g., Iovannone et al., 2003), in large scale reviews of the clinical science literature in the US (NAC, 2009), as well as in the UK (Charman et al., 2011). One key recommendation stated the need for effective transfer of information and knowledge about the pupil with ASD in the transition from primary to secondary school, and from school setting to school setting more generally.

The centrality and importance of these principles have grown over the years in authoritative texts focused on educational programming for children with ASD. A recent compilation (Prelock & McCauley, 2012) highlighted the increasing recognition in policies and research that parents must be at the core of all decision-making about their children with ASDs (as previously emphasized in NRC, 2001; Iovannone et al., 2003; NAC, 2009); and that procedures for managing transitions are key standards of educational programming for children with ASD (as previously emphasized by a vast clinical science literature; e.g., Dettmer et al., 2000; Briody & McGarry, 2005; Schreibman et al., 2000).

The standards for adequately managing transitions, though varying on the basis of the children served, all emphasize anticipation and preparation (Handleman & Harris, 2000). This is usually

done as a process that occurs across the child's last months prior to program exit, beginning with staff visits to future schools to assess the match of child with placement and to determine specific skills the child will need to function successfully in the next environment. Receiving teachers are invited to get an understanding of the child's history, including responses to management and teaching characteristics, and follow-up consultation is offered to receiving classrooms, among many other transition procedures (Handleman & Harris, 2000). In the absence of these procedures, a whole range of results may occur: learning rates may slow down or the child may actually regress from achievement levels reached in the previous environment; management lessons accrued over the period of the child's attendance to the previous environment (e.g., from the teacher's experience, from IEP discussions, from Functional Behavioral Assessments (FBAs)) may not transfer, and in fact, the child's behaviors may be exacerbated as old, maladaptive contingencies recur; and more generally, given the novelty of the physical environment, children "mix", routines and procedures, all of which signifying major changes in the child's rigid expectations, the likelihood of major disruption in positive adaptation and of exacerbation of maladaptive patterns of adaptation is great, and can pose a major threat to the child's ability to fit in the new educational setting (Olley, 2005; Handleman & Harris, 2000; Prelock & McCauley, 2012; NRC, 2001).

The clinical science literature on the association between transitions and behavioral problems in ASD is too voluminous to summarize here in greater detail. Equally large is the literature on strategies to manage transitions so as to minimize disruption and problem behaviors. But this literature, consensually, integrates several decades of research and its integration into educational practices in terms of:

- (1) a clear and frequent causative association between the characteristics of children with ASD and disruptive effects on learning and behavioral patterns related to transitions;
- (2) the importance of using consensual tools for managing and attenuation of the deleterious effects of transitions proactively, including parental involvement (discussed further below); and
- (3) the centrality of these considerations to compliance with IDEA statutes.

(Sterling-Turner & Jordan, 2007; Prelock & McCauley, 2012; Hume, 2008; Dettmer et al., 2000; Flannery & Honer, 1994; Flannery et al., 1995; Mesibov et al., 2005; Sainato et al., 1987; Schmit et al., 2000; Sterling-Turner & Jordan, 2007; McCord et al., 2001; Schreibman et al., 2000; Tustin, 1995; Wilder et al., 2006).

Both summarizing the preceding body of data, and presaging the thrust of educational research in the following decade, the NRC Committee stipulated the following quality indicators for programs serving children with ASD (NRC, 2001):

- (1) child-specific curricula;
- (2) highly supportive instructional environments;
- (3) maintenance and generalization strategies;
- (4) predictable routines;
- (5) functional behavior management procedures;

- (6) systematic transitional planning;
- (7) collaborative family involvement;
- (8) family supports;
- (9) low student-to-staff ratios;
- (10) highly trained staff;
- (11) comprehensive professional resources; and
- (12) staff supervision and program review mechanisms.

04. Transitions, Problems Behaviors, and the Individualized Education Program (IEP) Process:

As summarized in the NRC document (NRC, 2001), no single intervention has been shown to deal effectively with problem behaviors for children with ASD. The consensus among developmental, psychosocial, applied behavior and legal experts is that prevention of such problems should be a primary focus (Berkson & Tupa, 2000; Schroeder et al., 1986; Iovannone et al., 2003). There is also a consensus that the most effective form of prevention of problem behaviors is the provision and implementation of an appropriate Individualized Education Program (IEP). In this way, plans and educational decisions build on the individual child's strengths and vulnerabilities, as well as the child's patterns of responses to specific teaching and management strategies. The NRC report also quotes a report by the New York State Department of Health panel that developed the state's Clinical Practice Guidelines for Autism and Pervasive Developmental Disorders (NYSD, 1999): "The use of an ineffective assessment or intervention method [is] a type of indirect harm if its use supplants an effective assessment or intervention method that the child might have otherwise received".

The 1999 U.S. Department of Education Regulations for the 1997 Amendments to the Individuals with Disabilities Education Act (IDEA) provides for scientifically supported Interventions (e.g., 20 U.S.C. § 1400(4)). The IDEA further requires that schools must confirm, before any changes of placement due to a behavioral problem can be considered, that the IEP and placement were appropriate and that special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the IEP and placement (34 C.F.R. §§ 300.523, 1999; Turnbull et al., 1999). In summary, before assessing deficiencies in a child who is displaying disruptive behaviors, it is critical to assess the adequacy of the intervention program the child is receiving. IDEA requires that interventions must show demonstrable benefits to be continued. For these conditions to hold, the IEP process needs to be implemented, and, for a child about to move school setting, the transition elements of this IEP need to be carefully conceived, in an individualized fashion, with participation of all those pertinent who know the child well but certainly the teachers and parents, and with integration of past information (e.g., the corpus of evaluations and observations on the child in the previous setting) and future setting (e.g., an evaluation of the match between child and new setting with full support of educational professionals who will take over the child's educational programming). In this context, it is worth re-iterating the principles and standards of appropriate programming highlighted by the NRC report and singled out in their executive

summary (NRC, 2001, pp. 119-120), among which, the most pertinent to the current discussion are:

- (1) Curriculum content that emphasize direct instruction in basic skills domains and abilities: attending to elements of the environment that are essential for learning, especially to social stimuli; imitating others; comprehending and using language; playing appropriately with toys, and interacting socially with others;
- (2) Highly supportive teaching environments and generalization strategies;
- (3) Predictability and routine;
- (4) Functional approach to problem behaviors;
- (5) Plans for transitions; and
- (6) Family involvement.

None of these standards can be implemented without implementation of the IEP process in the spirit of the statute and in the way that it is implemented in compliant school settings (i.e., with a focus on the individual child's profile of strengths and weaknesses, and with parental participation).

Given the association between transitions and problem behaviors in children with ASD, the implementation of the IEP process and its importance is further highlighted by considering one key requirement of the IDEA statute. This point receives great attention in the NRC report (NRC, 2001). IDEA requires that if a child's behavior impedes his or her learning or the learning of others, the IEP team must consider strategies and supports to address that behavior (20 U.S.C. § 1414(d)(3)(B)(i), 1999; 34 C.F.R. § 300.346(a)(2)(i), 1999). As summarized by Turnbull and colleagues (1999) for the NRC Committee (NRC, 2001), these intervention and supports include:

- (1) systems change (e.g., the process of considering, modifying, or substantially changing an agency's policies, procedures, practices, personnel, organization, environment, or funding);
- (2) environmental alterations (including building on a child's strengths and preferences, connecting the child with community supports, increasingly the quality of the student's physical environment, making environmental alterations);
- (3) skill instruction (consisting of instruction for both the student and those who interact with him or her on the whole range of educational and social/communicative and adaptive goals); and
- (4) behavioral consequences (promoting adaptive behavior and minimizing disruptive behavior).

05. The Role of Parental Involvement in the Individualized Education Program (IEP) Process:

A key aspect of model programs of intervention in the country conceived in the 1970's through the 1990's, as summarized by Handleman & Harris (2000), was families' active involvement in their children's intervention. This element takes different forms but typically includes participation in individual meetings with professionals at the educational setting, some

instruction and/or training on promoting consistency of approaches across environments, and pooling of information across settings in order to better inform – both the educational professionals and the family – discussions on optimal strategies to promote learning and decrease disruptive behaviors while advancing generalization of skills across settings. The NRC Committee’s (NRC, 2001) summary of this work concludes that all model programs reviewed place a high priority on parental involvement in the education of their children with ASD, and commented on the trend towards broadened parent supports reflecting the consensual appreciation of the challenges faced by these families.

This appreciation is also part of the IDEA statute, where parental participation is discussed explicitly and in detail. Consistent with the literature on the importance of parental involvement in programming for students with ASDs, parents are to be included in the development of the Individualized Education Program (IEP), and all that it entails.

The role of families and their effective participation in educational programming is reviewed in great detail in the NRC report (NRC, 2001): “Parents can learn to successfully apply skills to changing their children’s behavior. Parents’ use of effective teaching methods, support from within the family and the community, and access to balanced information about ASD and the range of appropriate services can contribute to successful child and family functioning. It is crucially important to make information available to parents to ensure their active role in advocacy for their children’s education” (p. 4 of the Executive Summary; NRC, 2001). Their recommendation is expressed thus: “The committee recommends that families’ participation should be supported in education through consistent presentation of information by local school systems, through ongoing consultation and individualized problem solving, and through the opportunity to learn techniques for teaching their children new skills and reducing behavioral problems. Although families should not be expected to provide the majority of educational programming for their child, the parents’ concerns and perspectives should actively help shape educational planning” (p. 4 of the Executive Summary; NRC, 2001). These conclusions are based on a large body of literature on parental involvement in ASD children’s educational and treatment planning. This literature spans the areas of advocacy, fostering generalization of skills, addressing and managing problem behaviors, attenuating the effects of transitions, generating a comprehensive view of the child beneficial to families and educational professionals alike, among many others (several chapters of this compilation include pertinent discussion on this topic; Volkmar et al., 2005).

06. Unplanned Transitions and the Individualized Education Program (IEP)

Process:

The requirements for determining the placement of a child with a disability are included in the IDEA Part B regulations at 34 CFR §§ 300.114 through 300.118. These regulations provide that to the maximum extent appropriate, children with disabilities, including in public or private institutions or other care facilities, are to be educated with children who are not disabled and that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such

that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. These regulations also require that the placement decision for each child be made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options. A child's placement must be determined on an individual, case-by-case basis, depending on each child's unique needs and circumstances, made at least annually, based on the child's Individualized Education Program (IEP), and be as close as possible to the child's home. Recognizing that there is no "one size fits all" approach, and that placements in regular classes may not be the least restrictive placement for every child with a disability, the IDEA regulations specify that each public agency is to ensure that a continuum of alternative placements (including instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions) is available to meet the needs of children with disabilities for special education and related services.

As these regulations make clear, placement decisions must be made on an individual basis. Placements that are determined based solely on the category of a child's disability are not consistent with the regulations. A child may be placed in a special purpose school for students with ASD only if the placement team, consistent with 34 CFR §§ 300.114 through 300.117, determines that placement to be necessary to meet the needs of that child and that the child cannot be educated satisfactorily in a less restrictive setting, even with the use of appropriate supplementary aids and services.

In the context of this consultation, there are some points to highlight in regards to placement decisions. A blanket policy that children with ASD are to be placed in a given "autism-ready school" or another school from year to year means that they are not being programmed for as individual learners. These children are entitled to receive Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE). If this environment is judged not to be their home school, this decision, per IDEA, has to be based on having substantiated that the child cannot learn appropriately with the use of supplementary aid and services, as outlined in Part B of IDEA. These determinations cannot be made outside the IEP process, and, therefore, need to be in compliance with the IEP elements of the IDEA statutes, which is in accord with pertinent clinical science literature. In summary, significant unplanned transitions, defined here as transitions that do not comply with discussions and determinations by the IEP team, are inconsistent with the IEP statutes' language, spirit, and goals. By these statutes, consistent with clinical science literature, parental involvement is an essential element of the IEP process. And, as the literature above points out, the IEP process not only determines a child's needs relative to an undetermined future program, but, in order to consider the potentially deleterious effects of transitions, the IEP process also considers the adequacy of placements AND operationalizes a plan for achieving successful transitions.

Finally, as part of the review of materials provided by plaintiffs' counsel, I had the opportunity to read Ms. Williams's declaration and deposition. Although these materials provided some information about the organizational structure for decisions on special education placements carried out in the School District, there was no information on content or procedures assuring

that transitions decided upon for special education children with ASD (1) both involved and were fully discussed with parents, and (2) were a. evaluated fully, b. managed proactively, and c. thoughtfully executed, in compliance with the IEP statute's spirit and procedural recommendations as well as with the NRC recommendations (NRC, 2001). In fact, Ms. Williams's declaration and deposition affirmatively suggest parents are not meaningfully involved in significant unplanned transitions. Although, clearly, I have not evaluated the children's actual transitions (e.g., making direct observations of children and of classrooms), the parents' depositions point to their strong perceptions and observations indicating that the proposed transitions were managed very poorly (even when transitions did not occur because of the "stay put" statute). According to the parents' depositions, transitions were announced in a surprising, haphazard and unsupported fashion, creating hardships for children and families alike, and failing to support sending and receiving teachers (who presumably were critically aware of a. the importance of standards and procedures described above in this report, and b. are critically aware of the potentially disruptive effects upon all concerned associated with not following these recommendations). In sum, as explained above, the School District's practices associated with the transitioning of children with ASD from one educational setting to another appear to be inconsistent with best practices and standards, and not appropriate.

I remain available to address any further questions related to the topics of this consultation, and appreciate the opportunity to try and contribute to this important discussion.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 8, 2012.

A handwritten signature in blue ink that reads "Ami Klin". The signature is written in a cursive, flowing style.

Ami Klin PhD

Director, Marcus Autism Center, Children's Healthcare of Atlanta
Georgia Research Alliance Eminent Scholar Professor & Chief, Division of Autism & Related Disorders
Department of Pediatrics, Emory University School of Medicine

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