

Exhibit A

Statement in Support of Class Certification, S.S. v. City of Springfield

May 16, 2016
Peter E. Leone, Ph.D.

I. Introduction

1. The purpose of this report is to summarize my review of records and information relating to the case captioned S.S. v. *City of Springfield* (the "action") and to state my current findings and conclusions based on this review. I am confident that my conclusions are supported by the materials and information that I have reviewed.

II. Background and Experience

2. I am a researcher and Professor of Special Education in the College of Education at the University of Maryland. I have been a faculty member at the University of Maryland since 1981. My office is located at 3112 Benjamin Building, College Park, Maryland 20742.

3. I graduated from the University of Washington in 1981 with a Doctor of Philosophy degree in Special Education. Prior to completing my Ph.D., I attended the University of Iowa from 1968 through 1974, earning my Bachelor of Arts in History in 1972 and my Masters of Arts in Special Education in 1974. My *curriculum vitae* is attached as Exhibit 1.

4. My background includes teaching children with mental health disabilities in a neighborhood public school setting. For four years I taught adolescents with mental health disabilities in grades 7-9 at Central Junior High (1974-76) and Northwest Junior High (1976-78) in the Iowa City, IA public schools. During that time I was employed by Child Psychiatry Service of the University of Iowa (1974-77) and by the Grant Wood Area Education Agency (1977-78). The students that I taught were those with the most significant behavioral problems in the community. Many were medicated and all received positive behavioral supports in the neighborhood public schools.

5. For more than 30 years as a faculty member at the University of Maryland, I have trained teachers, studied education programs and supports for children with mental health disabilities, and have worked with schools and school districts to improve services and outcomes for children with disabilities, including those with the most significant behavioral challenges. From 1993 to 1998 I directed the Center for the Study of Troubling Behavior, a state-wide technical assistance project at the University of Maryland that supported schools and school districts serving children with emotional and behavioral needs in the schools.

6. During the past 25 years I have also worked with school districts, the courts, the Office for Civil Rights at the US Department of Justice, and several non-profit law firms as an expert, monitor, and special master in matters involving education services for children and adults with disabilities. During the 2014-15 school year, I worked with the Pennsylvania Department of Education to examine the quality of alternative education programs in that state.

7. I have edited a book, *Understanding Troubled and Troubling Youth* (Sage, 1990) and have published more than 70 chapters, research reports, monographs, and policy papers related to education services and youth with disabilities. For the past twenty years, I have served as a consulting editor for the *Journal of Emotional and Behavioral Disorders*.

III. Methodology

8. I conducted a study of a statistically valid random sample of students currently attending the Springfield Public Schools ("SPS") Public Day School ("sample"). I also supplemented this study of a random sample of Public Day School students with a study of a group of students outside of the sample ("supplemental review").

9. The sample included 24 students. The supplemental review included an additional 16 students. Both the sample and the supplemental review included interviews of students and/or

their parents as well as a review of their student records and other relevant documents. I interviewed in person 12 students in the random sample and/or their families.

10. Additionally, I reviewed records, data, reports and documents, as set forth below in Section IV and in the list of materials reviewed attached as Exhibit 2.

11. Finally, as part of my review, I interviewed local community mental health providers and advocates who work with Public Day School students.

A. Sample

12. In January through May of 2016, I conducted a review of 24 students currently enrolled in the SPS Public Day School. These 24 students were randomly selected from a list of all of students currently enrolled in the Public Day School provided by Defendants to the Plaintiffs' attorneys. This procedure was adopted in order that the sample provide sufficient basis to enable generalization of findings to the population of all students enrolled at the SPS Public Day School. The methodology that I used to select the random sample is described below in paragraphs 13 and 14 of this Report.

13. In or about late November 2015, I received a list of 233 students who were enrolled in the SPS Public Day School at the elementary, middle, and high school campuses. I determined, based on my professional training and experience, that a sample of ten percent of the population of children in the Public Day School would represent a statistically valid sample. Each of the 233 children was assigned a consecutive number. I used a random number generator to select students for interviews and file reviews.

14. After the random sample was generated, letters were sent to 125 parents of students in the SPS Public Day School. Twenty-five parents returned letters indicating their willingness to participate in my study. One parent subsequently withdrew consent and another

agreed to participate too late to be included in the sample. The final sample, therefore, included 24 children-all of whom are enrolled in the SPS Public Day School.

15. Of the 24 students participating in the random review, 2 were enrolled at the elementary school campus, 7 were enrolled at the middle school campus and 15 were enrolled at the high school campus of the Public Day School. Twenty were boys and 4 were girls.

16. In January 2016, I interviewed parents and guardians of 12 of the 24 students in the sample. Of these 12 students, there were 11 boys and one girl. Seven of the students were enrolled at the Public Day School high school campus, five were enrolled at the Public Day School middle school campus, and two were enrolled in the Public Day School elementary school campus. Families were interviewed in a conference room at the Marriott Hotel in Springfield or at the Committee for Public Counsel Services Youth Advocacy Division ("YAD") offices in Springfield. One family was interviewed at home. Each family was interviewed independently. Prior to interviewing the families I asked each if they were participating voluntarily. All confirmed that this was the case.

17. Following my interviews, I reviewed student educational records from SPS for all 24 students randomly selected to participate in the sample.

B. Supplemental Review

18. I also reviewed the records of 16 students currently or previously enrolled in the SPS Public Day School who were not part of the random sample, including the named plaintiff, S.S., and the exemplar in the First Amended Complaint, N.D. In November of 2013 and May of 2015, I interviewed 7 families of these children. These interviews were conducted at parents' homes and at YAD in Springfield. Additionally, in January of 2016, I interviewed one additional parent and conducted a second interview of another parent, both of whom had children enrolled in the Public Day School.

19. Following my interviews, I reviewed the educational records of these children from SPS.

20. I interviewed named plaintiff S.S.'s mother on two occasions—once in November of 2013 and once in May of 2015. I also interviewed S.S.'s stepfather on one occasion in November of 2013.

21. This methodology provides, in my opinion, an adequate basis for my conclusions. As an expert in the field of special education and education of students with mental health disabilities, I have based this report on methods that are accepted in my field and that would constitute an adequate basis to state conclusions in a peer-reviewed publication .

IV. Documents Reviewed

22. The student files I reviewed for the 24 students in the random sample contained grades, psychological reports, disciplinary incident logs and reports, individualized education programs ("IEPs"), and correspondence, among other documents.

23. As noted above, I also reviewed the records of 16 students currently or previously enrolled in the SPS Public Day School who were not part of the random sample, including the Named Plaintiff, S.S. and the exemplar in the First Amended Complaint, N.D.

24. In 2013, SPS provided plaintiffs' counsel copies of 510 IEPs of students identified by SPS as having emotional and behavioral disorders. I reviewed 130 of these IEPs; all personally identifiable information in them was redacted.

25. I also examined data and reports from the Department of Elementary and Secondary Education ("DESE") concerning suspensions and graduation rates of SPS students. In addition, I reviewed numerous policies of and other documents from SPS.

26. I reviewed S.S.'s complete educational record from SPS as well as S.S.'s psychiatric treatment and related records. Additionally, I reviewed the transcript of the administrative hearing that S.S. brought against SPS, prior to initiating this lawsuit, as well as all of the exhibits admitted into evidence at the hearing.

27. I reviewed the entire SPS school record for N.D., a student exemplar in the First Amended Complaint, as well as some of N.D.'s psychiatric treatment records and other related records for N.D.

28. A complete list of the materials that I reviewed is attached hereto as Exhibit 2.

V. Findings

A. Summary of General Conclusions

29. The proposed class ("class") in this case consists of all children with a mental health disability who are or have been enrolled in SPS Public Day School and who are not being educated in SPS neighborhood elementary and middle schools and the SPS comprehensive high schools (together referred to as "neighborhood schools").

30. Class members have been placed in the SPS Public Day School because they experienced behavioral difficulties in their neighborhood schools. In order to be educated in the neighborhood schools, these children need a common set of services. These services consist of: (a) a comprehensive assessment that determines the purpose of and antecedents for the child's behavior, (b) a school based intervention plan that relies on positive support, social skills training, a care coordinator, and adjustments to curriculum and schedule, (c) training for school staff and parents in implementing the plan, and (d) coordination with mental health providers who are involved with the child. The Complaint in this case refers to this common set of services as "school based behavior services" and I use that term or "SBBS" to refer to these services for purposes of this report.

31. The SPS neighborhood schools do not offer SBBS that would allow class members to avoid placement in the segregated SPS Public Day School. Lack of SBBS at SPS's neighborhood schools prompted SPS to place them in the SPS Public Day School. Prior to placing these children at the Public Day School, SPS often placed these children in what is referred to as the Social Emotional Behavioral Supports Program, or "SEBS" program which is a segregated program in the neighborhood schools. Based on my review, SPS fails to provide appropriate SBBS to these children in their regular classrooms or in the SEBS program, and as a result, SPS ultimately transferred children to the SPS Public Day School.

32. As a result of my review, I can state with confidence as a special education professional that the class could successfully be educated in an integrated setting in their neighborhood schools if afforded appropriate SBBS.

33. In addition to being denied the opportunity to be educated in their neighborhood schools, the children placed in the SPS Public Day School receive an inferior education and are denied services, activities, and supports that SPS students who are educated in their neighborhood elementary and middle schools and in the high schools routinely receive.

34. Children placed in the SPS Public Day School are deprived of courses, extra-curricular activities, and events available to students in other SPS elementary, middle, and high schools. They are also provided with what amounts to almost one semester less education than their peers who attend neighborhood schools because, by policy, the graduation requirements for the SPS Public Day School require substantially fewer credits than do SPS's neighborhood schools.

35. Even if SBBS were provided in the Public Day School, because SPS needlessly segregates children with mental health disabilities, the Public Day School would still be

inappropriate for the class. The segregation of children with mental health disabilities in an educational setting apart from their non-disabled peers is itself harmful and results in poor outcomes. Further, students who are segregated for having mental health disabilities suffer a stigma as a result of that segregation, not only as children but, often, for their entire lives.

36. The students in the class are within the range typical of students with mental health disabilities discussed in the professional literature concerning the education of students with mental disabilities in their neighborhood schools. In my experience as a special education professional, I have encountered students like these with mental health disabilities educated in neighborhood schools. They do not exhibit behaviors or have disabilities that stand out as extraordinary.

37. In my review of the sample and in my supplemental review, I have found that the experience of the named plaintiff, S.S., closely resembles that of the other children in the class. I have concluded that S.S., like the other children in the class:

- a. Has mental health disabilities.
- b. Could be educated successfully in an integrated setting given appropriate SBBS.
- c. Was not provided by SPS with even minimally adequate SBBS while he was enrolled in integrated schools.
- d. Was transferred to the Public Day School.
- e. While at the Public Day School received unequal and substandard academic opportunities.
- f. While at the Public Day School received unequal and substandard extracurricular opportunities.

- g. While at the Public Day School received grossly inadequate and inappropriate support for his mental health disabilities.
- h. While at the Public Day School was unnecessarily stigmatized and disadvantaged through his segregation from the SPS student population in the neighborhood schools.

38. For every student who was placed in the Public Day School from the neighborhood schools, the records show that SPS failed to provide appropriate SBBS in the neighborhood schools prior to the students' transfer to the Public Day School.

39. Every student file I reviewed failed to provide an adequate explanation as to why the student could not be educated in a neighborhood school. In my experience, as a special educator, students like those in the sample and in the supplemental review can be appropriately educated in their neighborhood school.

40. Similarly, every student file that I reviewed revealed that SPS provided inferior education opportunities at the Public Day School.

- B. SPS has a common practice of failing to provide SBBS to S.S. and members of the class in the neighborhood schools, thereby denying these children equal educational opportunity.

41. There is a professional consensus that students like those in the class require SBBS in order to be successfully educated in neighborhood schools. There is also a professional consensus that such students require SBBS in order to have the same opportunity to learn, advance from grade to grade, and graduate as students without disabilities. There is a professional consensus that such students require SBBS in order to attend neighborhood schools along with their peers without disabilities. Professionals in education and mental health believe that SBBS are essential in order to keep students such as those in the class in their neighborhood schools. SPS's failure to provide such services to students harms these children. It denies them the same

opportunity to learn, advance from grade to grade, and graduate as is afforded their peers without disabilities, and it denies them the opportunity to attend a neighborhood school along with students without disabilities.

42. In my opinion, SPS systematically denies students in the class the SBBS they need to enjoy equal educational opportunity and to be educated in neighborhood schools. Based on my examination of the experiences of students with mental health disabilities who have been placed in the Public Day School, my opinion is that none of these students whose records I reviewed received SBBS in the neighborhood schools before being placed in the Public Day School. It is also my opinion that it is highly unlikely that any other students in the class receive SBBS in their neighborhood schools before being placed in the Public Day School. SPS fails to provide these students with the school based supports that would allow them to manage behaviors related to their mental health disabilities or academic adjustments needed to accommodate their mental health disabilities.

43. For example, SPS does not provide these students with appropriate assessments to determine, among other things, the purposes of and antecedents to their behaviors. SPS does not provide effective intervention plans that rely on positive support, social skills training, a care coordinator, and necessary curriculum or schedule adjustments. SPS fails to coordinate with or train parents to provide consistent interventions for the students and engaged in little to no coordination with outside providers. As a result of SPS's failure to provide SBBS, students are removed from neighborhood schools and placed in the Public Day School. If SPS provided school based behavior services in its neighborhood schools, there would be evidence of this practice in the school records that I reviewed. However, I did not find such evidence. Moreover, when I interviewed students and their parents, they did not report receiving such services.

44. If SPS had a practice of providing SBBS in its neighborhood schools, there would not be more than 200 students at the Public Day School whose disability-related behavior, SPS believes, require their removal from neighborhood schools.

45. The stories of individual students reflect the systemic problems described above. K. L. was enrolled in the SEBS program at Commerce High School in the SPS before being placed in the Public Day School. She had a history of behavioral problems caused by her mental health disabilities, which include anxiety disorder and depression. Her records indicate that she did not receive SBBS that would have addressed these behaviors. With such services, K.L. could be educated in a neighborhood school. While at Commerce High School, K.L. was involved in a verbal altercation with another girl. As the teacher was attempting to deescalate the situation, a police officer (referred to by SPS as a Quebec officer) arrived on the scene. According to the teacher, although K.L. was not the instigator of the situation and was visibly agitated, the police officer attempted to handcuff her. K.L.'s hand hit the officer's thigh and she was charged with disturbing a school, assault and battery on a police officer, and resisting arrest. This is an example of a situation where SBBS-instead of police involvement-would have had a positive impact on the outcome. A school with adequate SBBS would not respond to such mental-health related behaviors by calling in law enforcement. A school with adequate SBBS would also not need to transfer a student to the SPS Public Day School.

46. K. H. was enrolled at Van Sickle Middle School during the 2010-11 academic year in the SEBS program. His IEP developed in January 2011 noted that he was able to complete "grade level curriculum" but that it was difficult for him to do so without staff support. The IEP also noted that he was able to consistently participate in some integrated classes, such as instructional technology class and PE, even without adequate support. K.H. is, like other members

of the class, a child who exhibits symptoms of a mental health disability but could successfully be educated in a neighborhood school that employed SBBS. Rather than providing SBBS, however, SPS placed K.H. at the SPS Public Day School middle school campus. My review leads me to conclude that placing K.H. in the Public Day School hindered his academic and extracurricular progress and failed to help him compensate for his disability.

47. Each sample student's individualized plan cites the reason for their placement in the Public Day School. Nearly all use boilerplate language-identical word for word. Some IEPs use the following boilerplate language:

The nature of the student's disability(ies), as previously described under Student Strengths and Key Evaluation Results Summary, requires removal from the regular education classroom in order for the student to receive a free, appropriate public education (FAPE). Supplementary aids and services provided within the regular education classroom will not allow the student to reasonably access and progress in the general curriculum, therefore, removal from the regular education environment is considered the least restrictive environment (LRE).

48. Others use the language:

Due to the student's social/emotional/behavioral and learning issues, it is critical that the student be removed from the general education classroom in order to receive instruction in a small class setting with an embedded therapeutic component. This type of program will provide consistent routine, as well as continuous support, throughout the entire school day and help to facilitate the most effective student progress toward the student's IEP goals.

49. Both versions fail to specify, directly or by reference, the SBBS that have been provided for these specific students. The language used is generic and not specific to the student. This pattern is, based on my experience, unusual and indicative that SPS failed to employ the SBBS recognized in the professional community as effective. It indicates that the process is not thoughtful, individualized, or deliberative.

50. The records of the sample students demonstrate a pattern of SPS failing to make any serious effort to employ SBBS prior to transferring class members to the Public Day School.

The records reveal a uniform failure by SPS to provide SBBS, including by conducting effective behavioral assessments, and developing and implementing effective behavioral intervention plans for these sample students prior to their placement at the Public Day School. Instead, SPS punished the children for their behavior resulting from their disabilities by repeatedly suspending, restraining, and/or isolating them. These actions by SPS are inappropriate. They constitute not accommodation of a disabling condition but punishment for a disability.

51. My supplemental review confirmed what the sample indicated: a wholesale failure by SPS to provide SBBS in the neighborhood schools.

52. My examination of 130 redacted IEPs (see paragraph 24 above) likewise shows a pattern of SPS failing to provide SBBS.

53. The records of the students I reviewed are replete with inappropriate admonitions to these students to "control" their behavior.

54. The service plans for these children often repeat the same boilerplate language in one plan after another. Some files include documents with an incorrect name of the child and references in the plans that appear to have been developed for another child. Based on my interviews and review of the records, SPS's response to students' mental health needs suggests that one size fits all. This systemic practice harms all students in the class.

55. S.S.'s experience is typical of students in the class.

56. Until he was in fifth grade, S.S. was enrolled in one of the SPS neighborhood schools. While at the neighborhood schools, S.S. did not receive the SBBS that he needed for his mental health disabilities, which include Depression, Attention Deficit Hyperactivity Disorder, Attention Deficit Disorder, and a mood disorder.

57. S.S., as a result of his mental health disabilities, often engaged in behavior such as refusing to stay in his seat or in class, running around the school building, and swearing at the teachers.

58. S.S.'s behavioral problems could have been managed effectively with SBBS.

59. Instead, S.S.'s disabilities were treated with inappropriate methods likely to exacerbate his behaviors rather than extinguish them. SPS routinely removed S.S. from the classroom, and often suspended or otherwise sent him home. SPS failed to teach S.S. alternative coping skills to help him to learn ways to stay in class.

60. Beginning in the fifth grade, S.S. was enrolled in the Public Day School.

61. The experience of W.C., a student in the supplemental review, provides another example of SPS's failure to provide SBBS before moving to segregate him in the Public Day School. In elementary school W.C. was placed in a SEBS program. His records show both behavioral and academic difficulties. Eventually, he arrived at Chestnut, a middle school, where his behavioral and academic difficulties continued. His records indicate that SPS did not provide any meaningful assessment or evaluation of his behavioral challenges until the fall of 2010 when W.C. was in the eighth grade. At that time a psychological evaluation was conducted that included recommendations for a "behavior management plan" among other services. After this evaluation, the first behavior intervention plan for W.C. appeared in his record-dated March 1, 2011. Days later, before any opportunity for meaningful implementation of this plan, SPS decided to place W.C. in the Public Day School.

62. A.Mu., another example from my supplemental review, is a child who is intellectually curious with a range of interests. His IEP from the neighborhood school stated that he "enjoys reading and hands on math activities at school." A.Mu. appears to have average

athletic ability and enjoys playing basketball. A.Mu. was identified as needing special education services in the first grade and has been diagnosed with attention-deficit hyperactivity disorder with explosive outbursts, affective deregulation, and a mood disorder. A.Mu.'s mental health disability was, from an early age, aggravated by his not receiving SBBS. A school psychologist noted in A.Mu.'s file that his disability is "triggered primarily in the school environment." This pattern of behavior is not uncommon in special education students. Such children can be educated successfully in neighborhood schools if the triggers or antecedents present in the school environment are managed appropriately.

63. A.Mu.'s challenges are not unusual for children with mental health disabilities. Children similar to A.Mu. can be-and are-successfully educated in neighborhood schools. Given SBBS, students similar to A.Mu. can achieve grade-level performance in academics, participate in extracurricular activities, and learn to compensate for their mental health challenges in a way that equips them to function productively as adults.

64. While at the neighborhood schools, and as a very young child, A.Mu. was routinely punished for behaviors that were symptomatic of his disability. For example, when only eight years old, A.Mu. received a 10-30 day suspension for behaviors that SPS eventually acknowledged were symptomatic of his disability.

65. SPS's lack of SBBS caused A.Mu. to fall behind academically and become a distraction to other children in his neighborhood school. I found no evidence that SPS provided, or even attempted to provide, the SBBS that A.Mu. needed to enable him to be successful at school. Consequently, A.Mu. was transferred to the Public Day School.

66. SPS policies do not clearly describe or require the provision of SBBS to children with mental health disabilities, including when necessary to avoid their removal from a

neighborhood school. The absence of a clear policy related to SBBS is another indication of SPS's failure to provide appropriate supports to allow for the education of children with mental health disabilities in an integrated setting.

67. In my review, it became clear to me that class members are transferred there from neighborhood schools because the neighborhood schools do not employ SBBS that are recognized in the professional community as effective and preferable to segregation.

C. Defendants have a common practice of needlessly segregating S.S. and members of the class in the Public Day School where they receive inferior educational services.

1. Class members could be educated in their neighborhood schools if they received SBBS.

68. As described above, class members are placed in the Public Day School due to a lack of SBBS. Class members could be educated in their neighborhood schools if they were provided with those services.

69. Because they have not received these services while attending neighborhood schools, class members have behaved in ways that resulted in their placement at the Public Day School. These students could be successfully educated in SPS neighborhood schools if they were provided with SBBS.

70. None of the students whom I interviewed, nor any of those whose records I reviewed, had a history of behaviors or academic challenges that would preclude them from being educated successfully in neighborhood schools. In fact, none of these students stood out as having extraordinary challenges. All experienced behavioral and academic challenges similar to those faced by countless other students with whom I have worked and who have been educated successfully in neighborhood schools.

71. The behaviors exhibited by students in the sample included things such as walking around, crawling on the ground, and making loud and distracting noises. These behaviors went unaddressed or were ineffectively addressed in neighborhood schools, resulting in students' removal from school. Those same behaviors have been successfully addressed in other communities with the provision of SBBS, without sending students to a segregated school.

72. The academic challenges experienced by students in the sample included things such as difficulty processing newly presented information, difficulty using context clues in reading, and distractibility. Students in the sample did not receive SBBS to address these challenges while they were in the neighborhood schools, resulting in their removal from school. Yet these challenges have been successfully addressed in other communities with the provision of school based behavior services, without sending students to a segregated school. For example, cognitive-behavioral interventions and intensive literacy support are SBBS techniques often used to support children with intensive academic needs. By addressing significant academic gaps in students' abilities, these approaches could enable students to experience success and remain in neighborhood schools.

73. Similarly, the students in the supplemental review could be educated in neighborhood schools if they received schoolbased behavior services.

74. Based on my review and years of experience working with students with mental health disabilities, I conclude that the class could be successfully educated in SPS neighborhood schools if they received schoolbased behavior services.

2. Once in the Public Day School, class members receive an inferior education.

75. Class members receive inferior educational services that are not as effective in affording them equal opportunity to obtain the same result, gain the same benefit, or reach the same level of achievement as that provided to students without a mental health disability.

76. All of the parents, guardians, and students I interviewed reported the common experience of receiving inferior services and supports in the segregated SPS Day Schools. Parents repeatedly stated that the Public Day School campuses were punitive environments that exacerbated their children's mental health problems.

77. All parents and guardians I interviewed described events and practices that were punitive. They commented about services and/or curricular activities not available to their children. The practices they described are not consistent with professionally accepted standards for education and treatment of children with mental health disabilities.

78. The physical buildings or facilities used for the Public Day School campuses have been consistently described by the students and families in interviews as inferior buildings to the neighborhood schools. My own observations of the Public Day School High School were consistent with these descriptions of an old and inferior facility. SPS seems to recognize the inferior appearance of the buildings used for the Public Day School campuses in the fact that the publicly available district budget displays pictures that purport to be of the Public Day School campuses but are instead of newer, better buildings.

79. Students enrolled in SPS's Public Day School are suspended at disproportionately high rates. For example, the annual suspension data published by DESE revealed that in the 2014-2015 school year the overall rate of out-of-school suspension for all students in SPS was 8.7 % while the rate of suspension for students attending the high school campus of the Public Day

School was 38.6 % and at the middle school campus was 36.8%. Consistent with this data, I found that the students whose files I reviewed and those I interviewed both in and outside the sample were suspended repeatedly while at the Public Day School.

80. The inferior education provided in the Public Day School is reflected in the shocking results for the Public Day School eighth graders who, on the 2015 MCAS "Science and Tech/Eng" test, were rated as 93% percent failing, 7% in need of improvement, and 0% percent proficient or advanced. (The state-wide averages for 8th graders on this test showed 18 % failing, 40 % in needs of improvement, and 42% proficient or advanced).

81. Very few of the students and families interviewed reported any extra-curricular activities at the Public Day School. Several students commented that occasionally there were intramural basketball games but that they were held infrequently. A review of extra-curricular activities available at neighborhood elementary, K-8, middle and high schools showed that a wide range of after-school activities were available in neighborhood schools. For example, at the elementary level, students had access to arts and crafts programs, boys and girls clubs, and cultural activities. Students at the middle and high schools had intramural soccer, volleyball, and basketball. They also had academic and career-focused clubs, academic support groups, and cultural and arts groups.

82. Only one student from my interviews reported participating in varsity sports. This student was enrolled at the Public Day School high school campus and just started in the swimming program after school at Central High School at the time he was interviewed. However in order to participate in team practices he has to leave the Public Day School early and miss some of his classes.

3. The Public Day Schools Employ an Inappropriate Punitive Approach to Education.

83. Parents were asked how they would describe the Public Day Schools that their children attended. Ten of fourteen parents interviewed in January, 2016 compared the Public Day School environment to a "jail" or "prison." One described the learning center at the Public Day School Middle School campus as a "dungeon." In my experience as a professional educator, I have never heard such consistently and vividly negative characterizations by parents of their children's school.

84. The Public Day School is not therapeutic and does not meet accepted professional standards. Instead, students in the Public Day School appear to be punished for behavior that is symptomatic of their emotional and behavioral disabilities.

85. S.S.'s academic experience in the Public Day School is typical of the class members I reviewed and was dramatically below that which would be considered minimally acceptable by professional standards. While at the Public Day School, S.S. was not offered a normal academic curriculum. S.S. would have had significantly greater academic achievement if educated in an integrated setting in an SPS neighborhood school, with appropriate SBBS.

86. S.S. had access to few extracurricular activities. While he is organized and interested in pursuits such as art and theater, S.S. essentially had no ability to engage in extracurricular activities at the Public Day School.

87. Further, S.S. did not receive adequate SBBS at the Public Day School. To the contrary, SPS engaged in a pattern of punishing S.S. for behavior that was a result of his disability. He was routinely subjected to physical restraints, including dangerous prone restraints, while he was at the Public Day School.

88. While at the Public Day School, S.S. was also arrested for minor school based offenses related to his disability. This treatment was not warranted by any aspect of S.S.'s disability.

89. A.Mu. is 14 years old and was enrolled at the Public Day School from 2013 through June 2015. A.Mu. is a member of the group of students whose records I have included in my supplemental review.

90. At the Public Day School, SPS treated A.Mu. not as a child with a disability but as a child who is simply not trying hard enough. For example, a 2015 SPS school psychologist report states that teachers identify A.Mu. as showing "inconsistent effort" and states that the PDS special education teacher assigned to A.Mu. has written him off as evidencing "lack of motivation." His school records demonstrate that the adults responsible for A.Mu.'s education failed to understand that his behaviors are simply symptomatic of his mental health disability. The difficulties with A.Mu.'s education are not from lack of effort but rather from the lack of SBBS in SPS.

91. When he left the Public Day School, A.Mu. was reading at approximately the same second-grade level that he had attained before entering the Public Day School. This lack of progress is simply stunning for a child who, prior to his transfer to the Public Day School, was identified as well within the normal range for cognitive ability.

92. In addition, while he enjoys sports and plays basketball outside of school, A.Mu. had virtually no access to extracurricular activities that could have strengthened his focus and connection to the school environment.

D. The unnecessary segregation of children with mental health disabilities in the Public Day School results in an inherently unequal education.

93. Children placed in the SPS Public Day School are deprived of equal educational opportunity by the very nature of their removal from an integrated setting and their peers.

94. In short, placing children in the SPS Public Day School contributes to the poor academic and social outcomes experienced by the class.

95. All but one of the parents I interviewed indicated that they wanted their children transferred from the Public Day School programs into integrated school settings with adequate SBBS. The one parent was ambivalent but had concerns about the services in the Public Day School. Her child expressed a strong preference for leaving the Public Day School.

96. Students segregated in the Public Day School are unnecessarily stigmatized and isolated.

97. Placing children in the Public Day School's segregated environment contributes to children's feelings of inadequacy and inferiority. It increases the likelihood that these children will continue to experience stigma and isolation as they age. It restricts their exposure to students without disabilities in a normal educational setting, and hence their ability to learn from and to interact with non-disabled peers.

98. Placing children with mental health disabilities together in the Public Day School appears to have a negative effect on their behavior. It deprives them of the opportunity to benefit from peer role models and the normalizing experiences of childhood. The evidence I reviewed—the interviews, students' records, and SPS policies and documents—supports the conclusion that placement of children in the SPS Public Day School makes their mental health disabilities worse.

99. Segregating children at the Public Day School who could be educated in neighborhood schools is inappropriate. Segregated education is inherently unequal. I could use

each child whose record I examined as an additional example of the inequality and inferiority of unnecessary segregation of children with mental health disabilities.

VI. Conclusion

Based on my experience as a special educator and expert in the area of education and mental health services, I can state with confidence that S.S. and other members of the class could successfully be educated in an integrated setting in a neighborhood school if afforded SBBS.

Based upon my review, I have concluded that:

- Children with mental health disabilities who are or have been placed at the Public Day School have a common set of experiences and S.S. is typical of this class of children.
- SPS denies children in the class equal educational opportunity and the opportunity to be educated in neighborhood schools by failing to provide the SBBS they need to learn, advance, and graduate from the neighborhood schools. Children in the class need these services to develop social and academic skills associated with graduation and transition to post-secondary education and employment.
- Children in the class receive an inferior education with fewer academic and extracurricular opportunities than those available in SPS's neighborhood schools.
- Segregating children in the Public Day School results in an inherently unequal education, restricts their exposure to children without disabilities, stigmatizes them, restricts their ability to learn from and how to interact with non-disabled peers, and worsens their educational and life outcomes.

Exhibit 1

Peter E. Leone CV not included here

Exhibit 2

EXPERT REPORT OF PETER LEONE
AS RELATED TO CLASS CERTIFICATION
May 16, 2016

EXHIBIT 2

1. Non-Student Record Information

Document	Bates No.
SPS Student-Parent Handbook	Publicly available document at SPS's website
SPS Strategic Plan 2013-2017	Publicly available document at SPS's website
SPS Special Education Program Description 2012-2013	Publicly available document at SPS's website
SPS School Staffing Allocation Plan	Publicly available document at SPS's website
SPS Pupil Progression Plan	Publicly available document at SPS's website
SPS Interim Administrative Procedure: Guidelines for Community Based Mental Health Agencies to Provide Mental Health Services at the School Site, Effective: June 3, 2010	Publicly available document at SPS's website
SPS Enrollment and Exclusion of Students	Publicly available document at SPS's website
SPS Comprehensive School Counseling Program	SPS-06643-006725
SPS Code of Conduct	Publicly available document at SPS's website
SPS Bullying Prevention and Intervention Plan, December 2, 2010	Publicly available document at SPS's website
SPS Bullying Policy, May 23, 2010	Publicly available document at SPS's website
Public Day Middle School SY 2012 School Report Card published by the Massachusetts Department of Elementary and Secondary Education ("DESE")	Publicly available information on DESE's website.
Public Day High School SY 2012 School Report Card published by DESE	Publicly available information on DESE's website.
Public Day Elementary School SY 2012 School Report Card published by DESE	Publicly available information on DESE's website.
SPS Attendance Policy, Oct. 22, 2011	Publicly available document at SPS's website.
SPS Anti-Harassment Policy	Publicly available document at SPS's website.
IEP analysis memo & spreadsheet	
2012 SPS discipline data published by DESE	Publicly available information on DESE's website.
<i>S.S. v. City of Springfield</i> , Civ. Action No. 14-30116-MGM, Complaint (Dkt No. 1)	
Civil Rights Complaint Against Springfield Public Schools, May 31, 2013	

DESE Coordinated Program Review Report of Findings (April 2014)	Publicly available information on DESE's website.
2013 SPS discipline data published by DESE	Publicly available information on DESE's website.
2012-2013 Student discipline data report & link to 2013-2014 data published by DESE	Publicly available information on DESE's website.
2013-2014 discipline data published by DESE	Publicly available information on DESE's website.
2014-2015 Discipline Data for PDS & SPS and link to DESE website for additional research data	Publicly available information on DESE's website
Mat Room Log	SPSMatRmOOO 1 -SPSMatRm0006
Processing Room Log	SPSProcessRmOOO 1 -SPSProcessRmOO 17
Defendant's Response to Plaintiffs' First Set of Request for Admissions	
Springfield Operating Budget for Fiscal Year 15	Publicly available document available at SPS's website
Springfield Operating Budget for Fiscal Year 16	Publicly available document at SPS's website
2014-2015 Discipline Data published by DESE	Publicly available information on DESE's website
"After School Programs, Pre-Schools Programs, and Alternative Programs Within the Springfield Public Schools, Before/After School Programs Within the Community, Opportunities for Students Who Leave School Without a Diploma, and Day Care/Nursery School Providers" by Kimberly Galaska & Marie Santos and presented by Connie Mahoney, Springfield Public Schools as of January 2013	Publicly available document available on internet
Exhibit A produced by Defendants in response to Plaintiffs' First Request for Production of Documents.	SPS06643-SPS06852, SPS06970-SPS07124
Exhibit I produced by Defendants in response to Plaintiffs' First Request of Production for Documents.	SPS01370-SPS01373
Exhibit K produced by Defendants in response to Plaintiffs' First Request for Production of Documents.	SPS01455-SPS01494
Exhibit J produced by Defendants in response to Plaintiffs' First Request for Production of Documents.	SPS01374-SPS01454
Exhibit O produced by Defendants in response to Plaintiffs' First Request for	SPS-01546-01573

Production of Documents	
Exhibit S produced by Defendants in response to Plaintiffs' First Request for Production of Documents.	SPS03004-SPS3045
Exhibit U produced by Defendants in response to Plaintiffs' First Request for Production of Documents.	SPS03057-SPS03080
Exhibit Y produced by Defendants in response to Plaintiffs' First Request for Production of Documents.	SPS06853-SPS0672
Exhibit HH produced by Defendants in response to Plaintiffs' First Request for Production of Documents.	SPS03478-SPS03489
Exhibit KK produced by Defendants in response to Plaintiffs' First Request for Production of Documents	SPS07125-SPS07137
Exhibit OO produced by Defendants in response to Plaintiffs' First Request for Production of Documents	SPS05267-SPS05275
Exhibit PP produced by Defendants in response to Plaintiffs' First Request for Production of Documents	SPS05276-SPS05424
Exhibit KKK produced by Defendants in response to Plaintiffs' First Request for Production of Documents	SPS07454-SPS07475
Exhibit UUU produced by Defendants in response to Plaintiffs' First Request for Production of Documents	Excel Spreadsheet (native format)-produced by SPS without Bates Nos.
Exhibit TTT produced by Defendants with Defendants' in response to Plaintiffs' First Request for Production of Documents	Excel Spreadsheet (native format)-produced by SPS without Bates Nos.
Exhibit XXX produced by Defendants in response to Plaintiffs' First Request of Production for Documents	SPS07167-SPS07453
Pleadings related to Motion for Class Certification in <i>S.S. v. City of Springfield</i> , Civ. Action No. 14-30116-MGM, (Dkt. Nos. 96, 97, 97-1, 97-2, and 98)	
Affidavit of Paul Foster and attached Exhibits (Dkt. Nos. 98-2, 98-3, & 98-4)	

2. Student Records for Students in Sample

Documents	Bates No.
SPS Student Records for K.H.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for I.R.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for H.R.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSHROOO 1 - SPSHR0218, SPSHR0219 - SPSHR0224, SPSAdm-014076, SPSAdm-014085
SPS Records for K. L.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPS-Adm-004930, SPS-Adm-004932, SPS-Adm-004934, SPS-Adm-004947, SPS-Adm-004949, SPS-Adm-004951
SPS Records for L.P.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for M.M.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for D.O.	Records obtained by CPR from SPS

	<p>pursuant to a signed release. Other records and documents considered include: SPSD00593- SPSD00594, SPSD00000 1- SPSD00592</p>
SPS Records for H.L.	<p>Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSHLOOO 1- SPSHL0707, SPSHL0708, SPS-Adm-011481-82, SPS-Adm-004979, SPS-Adm-004987-004988, SPS-Adm-004989-00493, SPS-Adm-004127-004130</p>
SPS Records for A.B.	<p>Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSABOOOI- SPSAB0602</p>
SPS Records for N.S.	<p>Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSNS0001- SPSNS0994, SPSNS0842- SPSNS0864 SPS-Adm-003728-003729, SPS-Adm-003730-</p>

	003731
SPS Records for R.W.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSRWO00 1- SPSRW0612, SPSRW0734- SPSW0783
SPS Records for Y.R.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSYRO00 1- SPSYR0697, SPSYD0160- SPSYD171, SPSYD0172- SPSYD0173
SPS Records for R.C.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSR0000 1- SPSRC0842
SPS Records for J.C.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSJCO00 1- SPSJC1416
SPS Records for D.G.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSDGO001-

	SPSDG0018, SPS-Adm-009861 SPS-Adm-009862, SPS-Adm-009863- 009864 SPS-Adm-008992- 008994, SPS-Adm-009161, SPS-Adm-00582- 00584, SPS-Adm-00593- 00595, SPS-Adm-003735, SPS-Adm-003736, SPS-Adm-003737- 004027, SPS-Adm-004028- 004032, SPS-Adm-004033- 004034, SPS-Adm-004039, SPS-Adm-004040, SPS-Adm-004041, SPS-Adm-004042, SPS-Adm-004043, SPS-Adm-004044- 004045 SPS-Adm-004046, SPS-Adm-004047, SPS-Adm-004070- 004071, SPS-Adm-004090, SPS-Adm-004091, SPS-Adm-004092, SPS-Adm-004105, SPS-Adm-004304- 004306, SPS-Adm-004318- 004320
SPS Records for A.M.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSAMOOO I-

	SPSAM0802, SPSAM0803- SPSAM0805
SPS Records for J.T.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSJTOOOI- SPSJT0828, SPSJT0829- SPSJT0834
SPS Records for T.W.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSTWOOO 1- SPSTW0992, SPSTW0997- SPSTW1010
SPS Records for A.T.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSATOOO 1- SPSAT0629 SPS-Adm-004476- 004477
SPS Records for R.Wr.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSRWOOO 1- SPSRW0742
SPS Records for S.H.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents

	considered include: SPSSH0001- SPSSH0096
SPS Records for D.S.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSDS0001- SPSDS0796
SPS Records for J.B.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered: SPSJB0001- SPSJB0994, SPS-Adm-005341, SPS-Adm-005343, SPS-Adm-005345- 005346.
SPS Records for A.C.S.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSAS0001- SPSAS0379

3. Student Records for Supplemental Review

Documents	Bates No.
SPS Records for S.S.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSSS0001- SPSSS0002.

Complaint & Arrest report October 2014 SPS for S.S.	
Transcript for Administrative Hearing for in <i>S.S. v. Springfield Public Schools</i> , BSEA No. 1309716	
All records, reports and documents produced by S.S. in discovery and as exhibits entered into evidence at the administrative hearing in <i>S.S. v.</i> <i>Springfield Public Schools</i> , BSEA No. 1309716	
SPS Records for J.R.P.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSJPOOO1 - SPSJP0003 SPS-Adm-002041- 002043, SPS-Adm-002124, SPS-Adm-002126, SPS-Adm-002127, SPS-Adm-002135, SPS-Adm-002136, SPS-Adm-002138, SPS-Adm-002139, SPS-Adm-002140, SPS-Adm-002141, SPS-Adm-002142- 002143 SPS-Adm-009149 SPS-Adm-009150- 009151, SPS-Adm-009166- 009167, SPS-Adm-009169- 009170
SPS Records for J.Rz	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include: SPSJROOO1 -

	SPSJR0143
SPS Records for N.D.	Records obtained by CPR from SPS pursuant to a signed release. Other records and documents considered include an independent FBA and a revised independent FBA
SPS Records for J. R.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for W. C,	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for K.E.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for E.M.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for J.P.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for N.W.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for A.Mu.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for B.G.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for D. J.	Records obtained by CPR from SPS pursuant to a signed release.

	Other records and documents considered include: SPS-Adm-004266
SPS Records for Je. R.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for S.C.	Records obtained by CPR from SPS pursuant to a signed release.
SPS Records for Ji. R.	Records obtained by CPR from SPS pursuant to a signed release.
130 of 510 Redacted IEPs produced by SPS in the administrative hearing in <i>S.S. v. Springfield Public Schools</i> , BSEA No. 1309716	

Disclosure

DISCLOSURE OF PETER E. LEONE

As related to class certification in the matter of *S.S. v. CITY OF SPRINGFIELD*, Civ. Action No. 14-30116-MGM

In compliance with Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure, I state the following:

1. My report, dated as of May 16, 2016, contains a complete statement of all of the opinions I currently plan to express regarding class certification and the basis and reasons for those opinions, based on the documents and other information produced as of May 12, 2016.
2. My report describes the primary data and other information I considered in forming my opinions.
3. I do not anticipate using exhibits, other than evidence noted in my report, to summarize or support my opinions.
4. My *curriculum vitae*, attached as Exhibit 1 to my report, sets forth my qualifications and lists all publications I have authored in the past ten years.
5.
 - (a) Within the last four years, I have provided testimony in my capacity as an expert or otherwise in the following matters:
 1. *J. W v. Birmingham Bd. of Educ.*, United States District Court, Northern District of Alabama, Civ. Act. No. 2:10-cv-03314-AKK (Provided deposition testimony and trial testimony (February 2015) on behalf of plaintiffs); and
 - ii. In the Matter of the Reduction in Force of Certificated Employees of the Los Angeles County Office of Education, OAH No. 2016030341 (testified at administrative hearings on behalf of Los Angeles County Office of Education regarding staffing levels and qualifications for teachers at juvenile detention facilities in 2013, 2014, 2015, and 2016).
 - (b) Within the last four years, I have provided statements, and reports in court proceedings as shown below:
 1. *J. W v. Birmingham Bd. of Educ.*, Civ. Act. No. 2:10-cv-03314-AKK, United States District Court, Northern District of Alabama (Submitted declaration in support of plaintiffs);
 11. *Handberry v. Thompson*, Civ. Act., 96-Civ.6161, United States District Court, Southern District of New York (Special Master 2014-15)(Issued a compliance report to the Court in 2015);
 - iii. *R.J. v Jones* (formerly *R.J. v. Bishop*), No. 1:12-cv-7289-MFK, United States District Court, Northern District of Illinois (Court-appointed Monitor and Expert) (Provided compliance reports to the Court for the period of 2012-2015); and

- 1v. *Casey A. v. Delgado*, Case No. CV-10-00192), United States District Court, Central District California (Co-Chair, Technical, Compliance and Advisory Committee)(Issued quarterly reports from March 2011 through March 2012, bi-annually from March 2012 until May 2015, and in May 2016 to the parties but not to the Court pursuant to the terms of a consent decree).

6. My compensation in this litigation is \$1000 per day (\$125 per hour for an eight hour day) for record review and preparation of reports and statements, \$1000 per day for depositions, and \$1000 per day for testimony, plus expenses.

Dated this 15th day of May 2016.



Peter E. Leone