

***Systems Change Consulting, LLC
Jeffrey Spitzer-Resnick
Attorney at Law
430 Sidney St.
Madison, WI 53703
(608) 206-7164***

October 1, 2021

Joe Zydowsky
Superintendent
School District of the Menomonie Area
215 Pine Ave. E
Menomonie, WI 54751

VIA E-MAIL ONLY

Re: Student

Dear Superintendent Zydowsky:

I am writing to request a special education due process hearing for Student, whom I represent. Student is a resident of Menomonie, Wisconsin, where her parents, Father and Mother reside. Their address is: Menomonie, WI 54751.

The basis for this request is that the School District of the Menomonie Area (SDMA) has failed to provide a free appropriate public education (FAPE) for Student, during the 2021-22 school year, and continues to fail to do so. This failure is set forth below.

As you may be aware, Student qualifies for special education due to an intellectual disability caused by Down Syndrome. As a result, she is in the highest risk category for contracting COVID-19 as well as the highest risk category for becoming severely ill and possibly dying if she does contract COVID-19. Due to her age, she is not eligible to receive a COVID-19 vaccination, so the only protection she has from contracting this potentially fatal disease is the protection provided by her parents at home, and by her school when she is there.

In addition, her IEP makes it quite clear that in order to receive a free appropriate public education (FAPE) in the least restrictive environment (LRE), she must be educated with her same age peers in school.

Unfortunately, as you are well aware, your school board started this school year off by removing essential COVID-19 mitigation protocols from your district schools, despite the strong recommendations to the contrary from the Dunn County Public

Health Agency. While the board recently reinstated a student mask requirement for elementary school, it is meeting on Sunday, October 3rd, to reconsider that decision. Moreover, the current elementary school mask requirement continues to fail to have other necessary COVID-19 mitigation strategies in place including a staff masking requirement, a staff vaccination requirement, quarantining and social distancing, all in violation to the Dunn County Public Health Agency's recommendations, as well as the recommendations of Student's physician.

Your school board's decision has forced my clients to keep Student out of school in order to quite literally, save her life. While saving her life is her parents' utmost goal, that should not come at the cost of a denial of her right to a FAPE in the LRE.

Therefore, as a resolution to the dispute, my clients request that the SDMA institute all appropriate COVID-19 mitigation protocols in Student's school building, including:

- A 100% student mask requirement;
- A 100% staff mask requirement;
- A 100% staff vaccination requirement (subject to medically approved exceptions);
- Quarantining of all positive COVID-19 students and staff and those who were in close contact with them, including notification of all students and staff of positive COVID-19 test results within Student's school building; and
- Social distancing of a minimum of 3 feet whenever possible.

My clients also seek reimbursement of attorney's fees and compensatory education for the failure to provide FAPE in the LRE during this school year.

I look forward to your answer to this complaint within 10 days as required under the Individuals with Disabilities Education Act (IDEA) of 2004. Please contact me regarding the resolution meeting, which must be held within 15 days.

Sincerely,

s/Jeffrey Spitzer-Resnick
Attorney for Father, Mother and Student

Cc: Father
Mother
Julia Hartwig, DPI (via e-mail)

l-100121jz-redacted