

GARY R. MILLER

723 E. 5th St. Apt. 5B, Brooklyn, NY 11218 | [REDACTED] | Eagle713@me.com

January 10, 2018

Carmen Fariña
New York City Schools Chancellor
Tweed Courthouse
52 Chambers Street
New York, NY 10007

Sent via CMRR 7017 1000 0000 7597 5025

Dear Carmen Fariña

New York City Schools Chancellor

By now you should have seen the letter dated December 28, 2017, to Principal Barbara Tremblay of 75P721K, regarding the Vineland II Assessment for John W. Miller, DOE# [REDACTED]. I sent it to you via USPS CMRR 7017 1000 0000 7597 5124. It was received January 3, 2018 in the Mail Room at the above address.

The letter discusses a recent incident in which Patrick W. Hays, Psy. D., School Psychologist for 75P721K conducted a Vineland II Adaptive Behavior Assessment on my son John, at my request, for determination of developmental disability and eligibility for services from the Office of People With Developmental Disabilities (OPWDD).

During the week of December 4, 2017, I contacted Mary Christopher, the Transition Linkage Coordinator for 75P721K, to determine if the school could perform the Vineland II testing. I called Mary because she had referred me to Stuart Flaum, the Managing Director of Special Needs Family Planning (SNFP). I met with Mr. Flaum on July 25, 2017 and he advised me that OPWDD might require a Vineland II Assessment of John and recommended YAI to perform the testing. I initially contacted YAI, before contacting Ms. Christopher, and they requested an up-front fee of \$500.00.

Ms. Christopher said that Dr. Hays could perform the Teacher Assessment but not the Parent Assessment. I didn't quite understand what she was talking about. She then began asking me about John's life skills at home: Can he dress himself? Can he cook for himself? Can he clean himself?, etc. I answered her questions accurately. Dr. Hays contacted me the same week and emailed me a consent form on December 8th to conduct the testing, which I returned to him on December 11th by email, which was also copied to Mary Christopher and Jeff Smith, John's teacher. The email included the letter from the Brooklyn OPWDD Eligibility Coordinator, Dr. Howard Reyer, to me, dated November 21, 2017. I thought I made it clear to all of the parties addressed in the email to "ensure that the testing and assessments you provide satisfy their (OPWDD's) request" ie. that the Vineland II Assessment would be *administered in accordance with any instructions provided by the producer of the assessments*. On the bottom of the consent, just above Dr. Hays' name and phone number, it says; "If you would like specific assessment to be conducted, please immediately contact:"

By the email I sent Dr. Hays, I made it clear that I only needed the Vineland II Assessment.

Dr. Hays conducted an interview of John and Jeff Smith, on December 12th. Dr. Hays chose to complete the assessment without input from me, John's primary caregiver since August 2009. As you should be aware, the Vineland II Adaptive Behavior Scales assessment is conducted "in order to determine the level of an individual's adaptive behavior, [with] someone who is familiar with that individual, such as a parent or caregiver, [by describing] his activities. Those activities are then compared to those of other people the same age to determine which areas are average, above average, or in need of special help." Dr. Hays emailed me the results on December 15, 2017. The report was issued in 2 parts:

1. The Psychological Update Report including John's Vineland II – Adaptive Behavior Scales – Teacher Rating Form
2. Addendum to the Psychological Update, which is a **Childhood Autism Rating Scale II (CARS II) Assessment** even though I didn't request additional testing beyond the Vineland II Assessment. He again conducted the assessment without parental input. Dr. Hays concluded that "**John's symptoms fell within the Minimal to No Symptoms Range of the Autism Spectrum Disorder.**

I assume the caregiver interview for the CARS II was provided by Jeff Smith as well. If Dr. Hays felt compelled to verify John's diagnosis of Autism Spectrum Disorder, I could have provided

him the same information below that I provided OPWDD, which was all of John's evaluations since his original diagnosis in September 2002. In my opinion, it was Dr. Hays' duty to request and review that information as a Best Practice, since John's diagnosis at Texas Children's Hospital was based on an Autism Diagnosis Observation Schedule (ADOS), which is one of the best assessment methods for determining Autism Spectrum Disorder. As such, all of Dr. Hays' testing and reports are useless both as far as John's diagnosis and his adaptive behavior. It appears that Dr. Hays used the consent form I signed to create an "avenue" of producing incomplete Vineland II assessments, as well as using an inappropriate **Childhood Autism Rating Scale** as the sole means of making his determination that John has **Minimal to No Symptoms Range of the Autism Spectrum Disorder**. Dr. Hays went to great lengths to diminish my son's disability while delaying his benefits. His actions are unprofessional and I can only assume that his motives are despicable. New York City Dept. of Education is responsible for Dr. Hays' actions and his motives.

It's my contention that Dr. Hays and NYC Dept. of Education knowingly violated the **Individuals with Disabilities Educational Act, (IDEA), Sec. 300.304 Evaluation procedures,**

(b) Conduct of evaluation. In conducting the evaluation, the public agency must—

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—

(i) Whether the child is a child with a disability under §300.8; and

(c) Other evaluation procedures. Each **public agency** must ensure that—

(1) Assessments and other evaluation materials used to assess a child under this part—

(iii) Are used for the purposes for which the assessments or measures are valid and reliable;

(iv) Are administered by trained and knowledgeable personnel; and

(v) Are administered in accordance with any instructions provided by the producer of the assessments.

This isn't an isolated incident that we've had with the NYC Dept. of Education. During the 2011 – 2012 school year, John's first placement was at 03M421 West Prep Academy. As part of his initial evaluations, I provided answers to Social and Vocational questionnaires, but there were no psychosocial, educational, psychological or speech and language reports produced. The only evaluation of record was a Woodcock-Johnson III Test of Achievement in which I was given a one page Compuscore Version 1.1b Score Report, at an IEP Meeting November 10, 2011, yet there was no IEP produced for the meeting. The IEP was sent to me on November 23, 2011 with a recommendation of a 12:1 Special Class setting. John was transferred to 03M256 on November 28, 2011 into a 12:1:1 Class setting. There was never a formal review of the IEP by an IEP Committee. The only review was on December 19, 2011, after I requested it and it consisted of individual reviews with my son's teachers. In the 12:1:1 setting, there were children with behavioral issues and it was disruptive to John. Because there was no formal review, John didn't receive Individual Speech-Language Therapy, as specified on the IEP, for almost 6 months after the IEP was issued. Esther Friedman, the then acting Superintendent of District 3 and Chancellor Dennis Walcott were made aware of the problem, yet I never received any follow up by either of their offices. A subsequent IEP was held on June 12, 2012, but I chose not to attend because no one from the school district would give me a guarantee that John would be placed in the proper class setting for the 2012 – 2013 school year and at the time, we were looking for another school district that could provide better services for John. I was sent a copy of the IEP on June 20, 2012 where it stated;

"There were a few times where John ran out of the school building after dismissal in the middle of the street (W. 93rd) when he was directed to stay indoors. This is a great concern for John's safety and John must follow directions".

I don't know if you've visited 03M256, but the buses park on the south side of the street and the cars sometime race down W. 93rd within a few feet of the buses. My son could have been killed by walking or running between the buses and into the oncoming traffic. Almost 7 months had elapsed since John began attending 03M256 and no one had informed me of this. That's when I made the decision to leave New York City and move us to New Canaan, CT.

We returned to New York City (Brooklyn) in June 2016 so we could be located in the city for my job. John was enrolled in District 20 where he was placed in 20K490, Fort Hamilton High School.

The problems started with John's enrollment. When District 20 enrolled him, they stated that his accommodations would increase by transferring to NYC schools, yet they wrote on Page 3 of 3 of his Comparable Service Plan that consideration was given for the following, but rejected, based on the IEP given to them:

- Special Education Support Services
- Integrated Co-Teaching

That was a falsehood. Based on Page 11 or 14 of his IEP from Chappaqua Consolidated School District, he had a Teaching Assistant (TA) or and he's always had a TA or paraprofessional in public school. I do realize that the standard class setting for High School Special Education Students in NYC schools is 15:1; however, without prompts for his schoolwork, his potential for success, with a very difficult General Education (GE) curriculum, was greatly diminished. The appearance to me was, that based on the curriculum, coupled with lack of prompting and lack of instruction, John and children like John with Intellectual Disabilities are destined to end up in District 75, rather than being exposed to neuro-typical children in a public-school setting.

When he was assigned a paraprofessional named Ms. Irene, she immediately began intimidating my son. The first day of classes was September 8, 2016. John was told by this paraprofessional that he would have to find his own way from class to class by the following Tuesday, September 13th. Fort Hamilton H.S. has four floors of classrooms and an enrollment of over 4,300 students. John had classes on multiple floors, so I hope you can appreciate the fear instilled in a young man with ASD who has never attended a school that size and who has no friends in the school. He was totally reliant on his teachers and the paraprofessionals.

Even though some of the teachers at the school noted that "when he is completing tasks on the computer, he is more focused", the school chose not to offer the assistive technology that they witnessed could enhance his success. The lack of prompting coupled with the lack of feedback led to missed or incomplete assignments and failing grades. I constantly had to intercede, particularly in his English class, to get the study material and get a clear understanding of the assignments, to help him complete his homework.

In December 2016, I received an application for Access VR Services for John. The application was partially completed by John with the assistance of Jennifer Rivera, Transition Team Leader at Fort Hamilton H.S., who approached me in a school hallway in early January 2017 about

expediting completion of the application. When I reviewed the application, it GROSSLY understated John's disabilities and GROSSLY overstated John's abilities in a professional work environment. Ms. Rivera had access to his Comparable Service Plan and last IEP from the Chappaqua Consolidated Public School District. To give you an idea of GROSSLY overstating, the document indicated that John had no difficulty:

- Speaking
- Carrying
- Lifting
- Reading
- Doing Arithmetic
- Working with people
- Working in an environment with Unprotected heights
- Moving machinery
- Working in an environment with Dust / Fumes, Loud Noises and High Stress

The school was aware that John has Mood Disorder – NOS and Autism Spectrum Disorder, yet the application indicated that he respectively had no Mental / Emotional Conditions or Learning Disability. Ms. Rivera created a situation where had I not been judicious in my review, I could have imperiled the health and safety of my son. Ms. Rivera did nothing with John's Access VR application. On June 28, 2017, the last day of the school year, I wrote the following to Walle Waldo, Parent Coordinator of K373, District 75, where John had been assigned after his IEP at 03K490.

"During John's IEP, I asked the committee, what would John receive at the end of the school year in District 75. I was told a Certificate of Completion. I received nothing regarding transition services from NYC Dept. of Education. I was never told that he would have to wait until he was age 21. I've been asking since June 19, 2017 about options for John during next year with the understanding that we need an option other than 75K373. I've received nothing and today is the last day of school."

Ms. River responded in 2 separate emails:

1)

“Attached you will find the electronic copy of John Miller's ACCES VR application that Mr. Miller originally sent to me in January.

Mr. Miller and Ms. Ciccarone have been copied on this writing to ensure transparency.

All the best for a fabulous summer!!”

2)

“John's ACCES-VR application was not submitted to ACCES-VR (due to the fact he was not exiting school at the time he left Ft. Hamilton). His completed application is still in his Transition File at 20K490 and I would be happy to supply it to K373 or ACCES-VR. I can certainly return it to you, as well, Mr. Miller.

I hope to hear that John is doing well. Please don't hesitate to reach out to me via email with any questions or concerns.”

As I noted above, John was transferred from 20K490 to 75K373. John's IEP meeting was initially set for December 1, 2016 and it was delayed until January 11, 2017, while I found a Parent Advocate to attend the meeting with me. I refused to agree to a District 75 setting for John. I expressed concern about John's possible reluctance to accept the District 75 setting, since there would be no neuro-typical students in such a setting. Chana Rabin – District 20 Representative, kept pressuring me to give her an answer agreeing to District 75 and I told her until I had more information on District 75's vocational opportunities, I couldn't make a decision. No one on the IEP Committee could provide that information. The discussion ended that 03K490 was going to provide the information I needed and a visit would be scheduled at an available school for John.

I received a letter dated January 23, 2017 that NYC Dept. of Education had selected K369 at K483 – 13K483: The Urban Assembly School for Law and Justice. Christine L. Ciccarone - Assistant

Principal Instructional Support Services at 03K490, arranged the meeting for February 6, 2017, but could not attend. She sent Jennifer Rivera to meet with Mr. Albin, the principal, and me. Mr. Albin told us shortly after arriving there that he didn't feel his school was the right place for John since he is 18. Mr. Albin then said he would make a phone call and send an email to someone in placement to see what our options were in getting John placed. He also recommended 75K373 as a good option for John. Obviously, the school was not vetted for 18 year olds with ASD, before we were sent there, or he just didn't want the burden of transition services for an ASD adult student.

On February 8, 2017, NYC Dept. of Education recommended 75K373 as placement for John. There were no available appointments until February 28th. I visited the school that day and approved the transfer. John's IEP was provided to Walle Waldo who noted the following after reviewing it:

"The IEP has quite a few corrections that should be made, however nothing major. It would not pass a SPP13 review nor an audit, however, nothing super alarming that would make it out of compliance. The most erroneous portions are in the PLOP (no mention of Alternate Assessment or type of diploma) and Recommended Services (just says d 75 program, not how we write it anymore). Moreover, the goals are written accordingly, but the method and schedule are not in acceptable D75 style (says will measure goals 6 times a year - we note 2x per month). Student is working towards obtaining a A New York State Skills and Achievement Commencement Credential Certificate" needs to be added to the academic section and under post-secondary measurable goals."

John's entry paperwork was given to me at 20K490 on March 13, 2017 to complete and I provided to Mr. Waldo on March 15th. My records indicate John's first day at 75K373 was March 21, 2017. John was miserable at 75K373, just as I told the IEP Committee he would be, because "there would be no neuro-typical students in such a setting." I kept Mr. Waldo apprised of John's condition. To the best of knowledge, based on feedback from my son, he received little, if any vocational education at 75K373.

From the date of the IEP meeting on January 11, 2017 through John's enrollment in 75K373, approximately 9 weeks elapsed that no one would respond to my request in the IEP Meeting of getting "more information on District 75's vocational opportunities". From date of my son's enrollment in 75K373 though the end of the school year on June 28, 2017, another 15 weeks

elapsed that no one would respond to my request in the IEP Meeting of getting “more information on District 75’s vocational opportunities”. In total, 24 weeks elapsed from the time I submitted his Access VR Application and still no one would respond to my request in the IEP Meeting of getting “more information on District 75’s vocational opportunities”. During this 24-week period, we received no transition services.

We had our first Access VR Meeting on December 13, 2017, 11 months after John’s application was submitted to Jennifer Rivera.

I want to remind you, Chancellor Fariña, what the Individuals With Disabilities Act says about “Transition Services”:

Sec. 300.320 Definition of individualized education program.

(b) Transition services. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include--

(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

The following statement is what the IEP Committee Team, with the exception of me, agreed to and included in John’s last IEP on January 11, 2017:

TRANSITION NEEDS

In consideration of present levels of performance, transition service needs of the student that focus on the student’s courses of study, taking into account the student’s strengths, preferences and interests as they relate to transition from school to post-school activities:

John is an 18-year-6-month old young man in 12th grade at Fort Hamilton High School. He will continue to be provided with opportunity to earn high school credits that meet

graduation requirements and will provide him with volunteering and training opportunities that will allow him to successfully make the transition to his post secondary activities. He needs to continue to attend school everyday and complete assignments in order to earn credits and demonstrate mastery on exams.

I don't feel that brief statement qualifies as "Transition Services". The opportunity for John to graduate from High School was never an option per the IEP Committee Team. As I wrote above, in the January 11th IEP Meeting, I was told his highest level of achievement in District 75 would be Certificate of Completion.

As I began the letter, John now attends 75P721K, the Roy Campanella School. He was enrolled in August 2017 and began the school year on September 7, 2017. So far, he appears to enjoy the educational and vocational curriculum in the school; therefore, I hope you can imagine how disheartening it is to ask for assistance from the NYC Dept. of Education, in the way of a necessary evaluation, and the work product of that evaluation is nothing more than a continued pattern of abuse of my son in a public school setting.

I am a private contractor working for Uber and Lyft and I have lost thousands of dollars in wages and added moving expenses due to NYC Dept. of Education, both in helping my son with overly difficult General Education (GE) homework to wasting time visiting schools that he should have been eligible to attend, to writing emails which I shouldn't have to write demanding my son's rights, which are guaranteed by the U.S. Department of Education, be preserved. Driving is the only decent paying employment I can find, since I devote most of my time to my son so he may have some semblance of quality of life as an adult. NYC Dept. of Education has thrown every stumbling block that I can imagine in front of us, including the delaying of information required for OPWDD benefits by one month. These are lost benefits which must be supplemented by John's Special Needs Trust and my earnings.

Throughout the more difficult times with the schools, I have tried to keep you apprised of our situation, Ms. Fariña. On June 28, 2017, the last day of the 2016 – 2017 school year, I sent you 2 emails regarding my continuing concerns with John's situation regarding school placement and the lack of transitions services:

In the first email to you, I forwarded you my email to Walle Waldo dated June 19, 2017:

"Hi Walle,

What can you tell me about Access VR opportunities for John? He is eligible for 2 more years of high school. If he attends District 75 next year, can you get him into a program specific to one vocation? Does D75 have that at other campuses? I'm having a very difficult time convincing John to stay at K373 for the next 2 years."

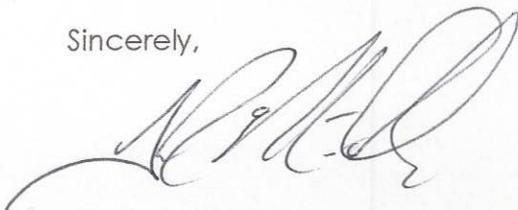
In my second email, I shared with you my concerns that John's abuses by NYC Dept. of Education stem from a vendetta against me by a previous employer and the investment banks they do business with in New York City.

Since December 17, 2017, you have been copied on the emails regarding John's recent assessments. Neither you nor anyone from your office has responded to my emails or made any attempt to contact me. Everything that I have written above is documented in writing, mainly in the form of emails or information provided by the NYC Dept. of Education to me.

Just as in 2012 when I felt my son's education and safety were in jeopardy, I feel the same way now. In the current case, it's much more extreme: the NYC Dept. of Education has not only threatening his education and safety, but now his disability benefits and future employment opportunities.

I previously asked for a meeting with you to resolve these issues. If you are unavailable or unwilling to meet with me, I will be happy to meet with someone from your office. I've been reading that you will be retiring or have retired. I hope that you will pass my concerns on to your successor. For my son and me to stay in New York City or even New York State, I must have assurances that we will be treated fairly and the pattern of behavior exhibited by NYC Dept. of Education since 2011, will cease.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Miller", written in a cursive style.

Gary R. Miller

cc:

Dr. Dorita Gibson, Senior Deputy Chancellor - Division of School Support

Sent via **CMRR 7017 1000 0000 7597 5032**

Corinne Rello-Anselmi, Deputy Chancellor - Division of Specialized Instruction

Sent via **CMRR 7017 1000 0000 7597 5056**

The Honorable Bill de Blasio Mayor of New York City

Sent via **CMRR 7017 1000 0000 7597 5063**

U.S. Representative Jerrold Nadler – 10th Congressional District of New York

Sent via **CMRR 7017 1000 0000 7597 5070**