



March 29, 2023

Via email ocs@dpi.nc.gov

Office of Charter Schools

Attn: Ashley Baquero, Education Consultant

6307 Mail Service Center Raleigh, NC 27699-6307

Re: Formal Complaint filed against The Experiential School of Greensboro

Dear Ashley Baquero:

Please consider this a Formal Complaint filed with North Carolina Department of Public Instruction Office of Charter Schools (“OCS”) on behalf of Isaiahⁱ, and his mother (“K.O.”), against The Experiential School of Greensboro (“TESG”).

In alignment with the National Education Association’s position that “expulsions and suspensions do more harm than good for students and society,” TESG declared in its charter school application and later explicitly stated in family handbooks that it would not, except under these extreme circumstances, expel or suspend students: a) ongoing emotional or physical abuse not resulting in injury requiring more than first aid of peers or teachers that does not respond to school interventions; b) serious one-time physical abuse of peers or teachers resulting in injuries requiring more than first aid; and c) serious, aggressive threats to the personal safety of others. In the case of any suspension, TESG stated that support services (referrals for counseling, health/social services, tutoring, etc.) will be offered to prepare the student for re-entry to the school. TESG also declared in its application that students with disabilities will have received ongoing support to prevent such events, but if a student commits one of these offences, their medical/psychological history will be considered when determining the details of their suspension, and their behavior action plan and support services will be revised in consultation with experts on their condition.

The events giving rise to this formal complaint are two short-term suspensions of Isaiah from TESG, both of which are detailed in the pages that follow. OCS’ investigation of this formal complaint is warranted under the circumstances because TESG has violated: (1) provisions of state law regarding short-term suspensions and (2) provisions of its own policies regarding discipline. As detailed below, all TESG’s grievance policies and procedures have been exhausted, but satisfaction was not received at the administrator level or Board of Directors level.

Right to Education Project

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Background

Isaiah started attending TESH in 2021 at the start of his sixth-grade school year. He is a very bright child who is able to engage in highly intellectual conversations with his teachers and mental healthcare providers. In 2020, Isaiah earned his black belt in Tae Kwon Do during the lockdown period of the pandemic. Isaiah benefited greatly from martial arts, as his pediatrician said he would when he was diagnosed with ADHD in 2016. In the Spring of 2021, he received special education evaluations at TESH, including an occupational therapy evaluation, which ultimately led to a diagnosis of [Sensory Integration Disorder](#) (SID). Isaiah has several diagnoses that present challenges for him that he manages through attending weekly cognitive and occupational therapy appointments.

Isaiah loves his friends, his family, musicals, all things STEM, digital editing, and all things gaming. Isaiah has an amazing sense of humor and loves to make his friends laugh. Isaiah has made many friends at TESH and felt that he was a valued part of the TESH community up until the Fall of 2022. He is a child who loves few things more than school, but this year TESH became a place to fear rather than a place to love for the first time in his life.

Isaiah was suspended on 16 September 2022 for allegedly violating the school's acceptable internet use policy when he altered a popular image online by placing his teacher's face over the image. He was suspended again on 14 December 2022 for allegedly displaying aggressive behavior when he (1) used offensive language and (2) purportedly caused a minor injury to another student.

Exhaustion of All Avenues Provided in TESH's Grievance Policy

Pursuant to the policies of OCS, Isaiah has exhausted all avenues provided in TESH's grievance policy.

1. On 16 September 2022, K.O. met with TESH's Executive Director for an administrative meeting regarding Isaiah's short-term suspension.
2. On 21 September 2022, K.O. retained Legal Aid of North Carolina ("LANC") to provide legal assistance in Isaiah's suspension. On 20 October 2022, LANC sent a legal demand letter to TESH regarding the short-term suspension for Isaiah's alleged violation of TESH's acceptable use policy.
3. The letter demanded: (1) Isaiah's access to all make up work and missed exams; (2) TESH's coordination of a restorative justice circle, and (3) a copy of all records pertaining to Isaiah in TESH's possession. The letter also requested TESH's participation in a facilitated IEP meeting to review potential special education violations.

4. On 26 October 2022, in response to the demand letter, TESG's Executive Director incorrectly asserted via email to undersigned counsel, "all requested student records for [Isaiah] were provided in hardcopy to the parent/guardian on Monday, October 24, 2022." The records provided by TESG did not contain Isaiah's attendance records as requested. The records also contained the confidential special education records of another TESG student.
5. In response to the legal demand letter, TESG's attorney, Allison Tomberlin ("Attorney Tomberlin") emailed undersigned counsel on 27 October 2022 to request a one-on-one call to discuss the matters contained in the demand letter.
6. A call took place between the attorneys on 28 October 2022.
7. A follow-up email was sent on 3 November 2022, in which Attorney Tomberlin shared:
 - a. PowerSchool was "down" for all parents, but a request for K.O.'s access was pending as of the end of the previous week.ⁱⁱ
 - b. TESG would reconvene the restorative circle at Isaiah's request, with the three individuals Isaiah mentioned.
 - c. The school will participate in a facilitated IEP meeting for Isaiah's benefit.
8. During this period of communication between the attorneys, K.O. was still communicating with TESG's administration in efforts to get a copy of the suspension investigation results promised by TESG's Executive Director. K.O. filed a grievance on 25 October 2022 and K.O. submitted a grievance to the Executive Director. She amended her grievance on 11 November 2022.
9. TESG's Executive Director never provided K.O. with any results regarding the suspension investigation.
10. After multiple attempts to get an update on the suspension investigation, on 2 December 2022, Attorney Tomberlin finally informed undersigned counsel that the results of the Executive Director's investigation that resulted in Isaiah's suspension were as follows: "the results of the investigation were that Isaiah should have been suspended." Even though there was a clear violation of TESG policies, Attorney Tomberlin also stated that ISAIAH's "attendance records would reflect a suspension . . . because he was suspended."
11. On 12 December 2022, K.O. submitted an appeal to the grievance decision and requested removal of the short-term suspension from Isaiah's record due to her belief that the absences were inaccurate or misleading due to the Executive Director's lack of authority to short-term suspend Isaiah under the circumstances.
12. On 14 December 2022, the grievance recommendation was reviewed by TESG's grievance committee, and on 16 December 2022, K.O. received a final written decision

from the chair of TESG’s Board of Directors as the grievance committee’s investigator, which upheld the dismissal of K.O.’s grievance.

13. On 14 December 2022, a response to LANC’s demand letter was received from Allison Tomberlin, attorney for TESG, in which she highlighted TESG’s executive director’s “tremendous authority and autonomy under TESG’s short-term suspension policy,” and emphasized that the decision to suspend Isaiah “has been made and is final.”

Accordingly, OCS’ review of this formal complaint against TESG is proper.

Violations

- 1. TESG violated a provision of law, specifically, N.C.G.S. § 115C-390.6(a) & (b) (“Short-term suspension procedures”) when TESG’s Executive Director imposed a short-term suspension upon Isaiah without first providing him an opportunity for an informal hearing to mitigate or defend against the violations alleged against him.***

Under, N.C.G.S. § 115C-390.6(a) (“Short-term suspension procedures”), “except as authorized in this section, no short-term suspension shall be imposed upon a student without first providing the student an opportunity for an informal hearing with the principal. The notice to the student of the charges may be oral or written, and the hearing may be held immediately after the notice is given. The student has the right to be present, to be informed of the charges and the basis for the accusations, and to make statements in defense or mitigation of the charges.”

The only exceptions to this informal hearing requirement are listed in N.C.G.S. § 115C-390.6(b) and mandate that the presence of the student must create a direct and immediate threat to the safety of other students or staff, or substantially disrupt or interfere with the education of other students or the maintenance of discipline at the school.

TESG’s October 2020 Revised Family Handbook and Student Code of Conduct, which was active at the time of Isaiah’s 16 September 2022 suspension, boldly proclaimed, “[t]he Experiential School of Greensboro will adhere to clearly defined discipline procedures based on respect, equality, and the right to due process and grounded in the Responsive Classroom and Peaceful Schools program protocols[.]”

First Suspension: September 16, 2022 – Governed by TESG’s October 2020 Revised Handbook

During indoor recess time on Thursday, 15 September 2022, Isaiah thought it would be funny to photoshop his teacher, (“Teacher A’s”) face over a popular image from the widely viewed Netflix series *Stranger Things*.ⁱⁱⁱ So, he photoshopped Teacher A’s face over a popular character’s face and kept an image of a burning car from the original image in the background.

The images below illustrate Isaiah's alterations to the original image:



Original Image from Stranger Things Photoshopped Image of Teacher A^{iv}

One of Isaiah's teachers, ("Teacher B") saw the image Isaiah created and asked Isaiah to email her the image. Teacher B then took the image and put it on a Google Slide, using it as an example of things not to do during recess and emailed the image to every 7th and 8th grade student and teacher at TESH.

On the next day, Friday, 16 September 2022, TESH's Executive Director called Isaiah to her office around 11:00 a.m. after learning of the photo. Instead of allowing him to speak, Isaiah reports that she continuously insisted that he had ill intentions behind the image that he created of Teacher A and she repeatedly stated that *she* did not find the image to be funny. She continuously told Isaiah that he was wrong and should not have placed his teacher's face over the other image.

K.O. reports that the Executive Director called and said she needed to pick Isaiah up because he "created an image of a bomb next to his teacher." After listening to the Executive Director's explanation for the suspension, K.O. asked her if she was aware that Isaiah had a disability as the behavior she described sounded related to his disability. The Executive Director then asked if Isaiah had an Individual Education Program ("IEP"). K.O. informed her that Isaiah had an IEP, and TESH's Executive Director said she would look over it and it would be considered in any decisions moving forward. K.O. was puzzled by the language, as it seemed to divert entirely from the discipline policies that the school was committed to based on the explicit language in TESH's NC Charter School Application and TESH's Family Handbook.

K.O. reports that she arrived at TESH around 2:00 p.m. When K.O. asked the Executive Director why there was a sudden abandonment of TESH's policy to consider a student's disability in discipline decisions and not facilitating a restorative justice circle and was told by the Executive Director "some things are beyond restoration." Multiple times during the meeting with the Executive Director, which lasted roughly twenty minutes, Isaiah's mother was assured that a thorough investigation would be conducted prior to a final disciplinary decision and that such investigation would include consideration of Isaiah's IEP.

Because Isaiah was unable to effectively speak or defend himself when he met with The Executive Director, he dictated a written three-page document to explain his actions to her after he arrived at home on 16 September 2022. A few direct statements from Isaiah's letter are highlighted below:

1. My intention was never to offend [Teacher A].
2. I made the photo [as] a parody of a photo of a character from *Stranger Things*, which is a show on Netflix that just released its 4th season, and it is a picture of a character who a lot of people and myself admire who died at the end of the season.
3. The picture was made to pay homage to the character because he died in a very noble way.
4. I thought it would be funny to make a parody of the image.
5. I was simply trying to make a joke and make a parody out of the image.
6. A lot of people have that image with Eddie [the character from *Stranger Things*] in it as their profile picture.
7. I tried to explain what I'm explaining here on Friday to [TESG's Executive Director], but I was told that it's just wrong and not ok and I shouldn't have done it.
8. I was just trying to explain where I was coming from and I was pretty much never given a chance to do so because I was shut down every single time I said, "it was just a joke."
9. She said she didn't find it funny, and I was trying to explain that I thought it would be funny.
10. Instead of just going to the principal's office we could have had a circle with [Teacher A], it could have been a productive thing, but nope the principal just sat there scolding [Isaiah and another student] for 30 minutes without even listening to what we had to say.
11. I just looked up [Teacher A]'s first and last name and I guess not a lot of people have the name and you literally just have to scroll down like an inch like 2 inches and the picture's right there so I just saved it.
12. I didn't go on anyone's LinkedIn. I just simply saved the picture and I was not trying to do anything malicious, nothing was with a malicious intent and I feel like that was not heard.
13. The reference photo is a character from *Stranger Things*, who is really loved, and the goal was never to humiliate anybody. It was just something that I was doing for fun, and I thought it would be funny, and I didn't have much to do.
14. I also thought the point of this school was to do deal with things differently and I feel like I didn't have much of a voice in trying to explain myself.
15. I feel that I was not listened to and I was continuously blown off by the principal and at a school where it's entirely about social justice and having circles and doing listening to both sides. I feel that I was just continuously told that "it's not funny, I don't think it's funny" and that's not necessarily fair and I feel like that doesn't align with the values of this school.
16. Teacher B saw it during recess and is the one who took the picture of the screen, I actually thought it was funny as well, and when Teacher A came in, a couple of minutes after and asked who made it.
17. I admitted to being the one making it, and everybody was laughing, mainly at me and we thought everyone was laughing. Teacher A said, "Ok, I'll see you."
18. We all thought he thought it was funny. If he wasn't laughing, we didn't see it the way.
19. I think that it wasn't actually that big of a deal, because he came in and just said, "who made this," and the way he said everything made me think that he was being funny.

Under N.C.G.S. § 115C-390.6(a) & (b), Isaiah was entitled to a properly conducted informal hearing with TESG's Executive Director. When Isaiah was informed of the alleged violations, the Executive Director was required to allow Isaiah to fully explain and defend his actions at an informal hearing. Instead, when she met with him upon learning of the photo, she continuously interrupted him and inserted her own beliefs about his actions. Isaiah should not have needed to resort to dictating three-page statements to explain himself because of the Executive Director's refusal to listen to him. By denying Isaiah an opportunity to make statements in defense or mitigation of the violations alleged against him, as required under N.C.G.S. § 115C-390.6(a) & (b), TESG violated Isaiah's rights to an informal hearing during the 16 September 2022 meeting.

2. TESG violated a provision of law, specifically, N.C.G.S. § 115C-390.5(a) ("Short-term suspension") when TESG's Executive Director imposed a short-term suspension on Isaiah without evidence that Isaiah conduct willfully violated a provision of the Code of Conduct.

N.C.G.S. § 115C-390.5(a) provides, "[t]he principal shall have authority to impose short-term suspension on a student who willfully engages in conduct that violates a provision of the Code of Student Conduct authorizing short-term suspension." North Carolina's case law has defined "willfully" as "something more than an intention to commit the offense." *State v. Stephenson*, 218 N.C. 258, 264, 10 S.E.2d 819, 823 (1940). "It implies committing the offense purposely and designedly in violation of law." *Id.*

TESG's Policy 909 Internet Safety and Acceptable Use Policy for Technology (October 2020 Handbook pp. 51-53) states, "[t]he Experiential School of Greensboro (TESG) provides computer and Internet access to support educational excellence. Use of these resources is a privilege, not a right, and is subject to this Acceptable Use Policy (AUP)."

TESG's handbook also lists the following goals for appropriate internet use at TESG: (a) build research skills to support Project Based Learning; (b) learn to evaluate quality of online news and information services; (c) engage in innovative learning experiences; (d) collaborate with others in the school community and worldwide; (e) encourage curiosity and discovery; (f) make connections with other communities and individuals; and (g) find new ways to express themselves through electronic media.

The Executive Director short-term suspended Isaiah on 16 September 2022 for 5-days for allegedly violating the TESG's acceptable internet use policy. Isaiah's three-page letter to the Executive Director after she refused to allow him to speak on 16 September 2022 shows no signs of a student who acted in "willful" violation as required under § 115C-390.5(a). As Isaiah's letter explains, (1) he never intended to offend Teacher A; (2) that the altering of the photo was done as a parody of a photo of a character from *Stranger Things*, which is a show on Netflix that had just released its 4th season, and it is a picture of a character who a lot of people and myself admire who died at the end of the season; (3) the picture was made to pay homage to the character because he died in a very noble way; (4) a lot of people had that image with Eddie [the character from *Stranger Things*] in it as their profile picture on Discord, Instagram and TikTok;

and (5) the reference photo is a character from Stranger Things, who is really loved, and the goal was never to humiliate anybody. Isaiah stated this was just something he did for fun because he thought it would be funny, and he didn't have much to do. He reiterated throughout the letter that he was acting in a joking manner.

Negating any intent to willfully or purposefully violate the AUP, Isaiah stated, "I just looked up Teacher A's first and last name and I guess not a lot of people have the name and you literally just have to scroll down like an inch like 2 inches and the picture's right there, so I just saved it [and made the image]."

Instead of supporting a willful violation of TESG's acceptable use policy, Isaiah's intent and actions as explained in his three-page letter, fit squarely within several goals identified by TESG's AUP, including accessing photos to encourage curiosity and discovery; make connections with other communities and individuals; and finding new ways to express himself through electronic media. Accordingly, TESG violated N.C.G.S. § 115C-390.5(a) by imposing the short-term suspension on Isaiah without evidence of any willful violation of the Code of Student Conduct and against the abundance of evidence showing that Isaiah did not possess intention to purposefully commit the alleged violation of the school's AUP.

3. TESG violated a provision of law and its own disciplinary policies, in a material nature, with regard to N.C.G.S. § 115C-390.5(a) ("Short-term suspension") by exceeding its authority under this Section when TESG's Executive Director imposed multiple short-term suspensions on Isaiah for allegedly violating provisions of the Code of Student Conduct that did not authorize a short-term suspension.

N.C.G.S. § 115C-390.5(a) eliminates a principal's authority of to act with unrestricted discretion by limiting their authority to impose a short-term suspension only when two conditions are met: (1) the student must willfully engage in conduct that violates a provision of the Code of Student Conduct and (2) the Code of Student Conduct must authorize short-term suspension for the violation.

Having established that Isaiah conduct was not willful, we turn next to the Executive Director's lack of authority under TESG's Code of Student Conduct to suspend Isaiah on separate incidents: (1) on 16 September 2022 for allegedly violating TESG's acceptable use policy (AUP) and (2) on 14 December 2022 for allegedly violating TESG's "aggressive behavior policy."

First Suspension: 16 September 2022 Suspension - Alleged Violation of TESG's Acceptable Use Policy - Governed by October 2020 Handbook

The consequences authorized for Isaiah's alleged 16 September 2022 AUP violation are explicitly stated in TESG's October 2020 Revised Family Handbook ("2020 Handbook"), which was active at the time of the suspension. Under TESG's Acceptable Use Policy, the consequences were as follows, "[v]iolation of any provision in the AUP may result in disciplinary action and/or cancellation of access to TESG's network and devices."

TESG's 2020 Handbook and Student Code of Conduct asserts, "[t]he Experiential School of Greensboro will adhere to clearly defined discipline procedures based on respect, equality, and the right to due process and grounded in the Responsive Classroom and Peaceful Schools program protocols[.]" Those clearly defined discipline procedures regarding suspension, outlined in Policy 603 ("Grounds for Suspension, Exclusion or Expulsion") (2020 Handbook p. 16), explicitly states "TESG will not, except under these extreme circumstances, suspend, exclude or expel students:

1. on-going emotional or physical abuse not resulting in injury requiring more than first aid of peers or teachers that does not respond to school interventions;
2. serious one-time physical abuse resulting in injuries requiring more than first aid;
3. any sexual abuse of peers or teachers; and
4. serious, aggressive threats to the personal safety of others."

TESG's 2020 Handbook and Student Code of Conduct contained Policy 604 ("Procedures for Short Term Suspensions") stated, "[a] short-term suspension is a removal from the school for a period of less than ten (10) days. A School Director may impose a short-term suspension only in the cases outlined in Policy 603." (2020 Handbook pp. 16-17).

Isaiah's alleged AUP violation stems from Isaiah's 15 September 2022 Google search of his teacher's name, saving an image he found of his teacher's face from the quick search, and altering a popular image from *Stranger Things* by placing his teacher's face over the popular image. Under these facts, N.C.G.S. § 115C-390.5(a) and TESG's 2020 Handbook limited TESG's Executive Director authority to imposing disciplinary action and/or cancelling Isaiah's access to TESG's service; however, her authority to impose disciplinary action was not unbridled because she was also bound by the remainder of TESG's 2020 Handbook.

Isaiah's September 2022 conduct did not meet any of the four extreme circumstances listed in TESG's Policy 603. His conduct did not cause Teacher A or other students ongoing emotional abuse or physical abuse requiring more than first aid. His conduct did not involve serious one-time physical abuse. His conduct did not involve any sexual abuse of his peers or teachers. His conduct did not involve serious, aggressive threats to the personal safety of Teacher A or others at TESG.

Accordingly, short-term suspension was not authorized under the Student Code of Conduct. Therefore, TESG's Executive Director exceeded her authority when she imposed a short-term suspension for Isaiah's alleged AUP violation because his alleged conduct did not fall within any of the clearly defined extreme circumstances outlined in TESG's Policy 603 governing short-term suspensions.

Second Suspension: December 14, 2022 - Alleged Violation of TESG’s “Aggressive Behavior” Policy - Governed by TESG’s October 2022 Revised Handbook

On 14 December 2022, TESG’s Executive Director again short-term suspended Isaiah for 3-days out-of-school suspension (January 9, 2023 – January 11, 2023) from TESG for allegedly displaying aggressive behavior. Isaiah’s suspension notice for the 14 December 2022 incident alleges Isaiah engaged in “aggressive behavior” when “[he] became aggressive and used abusive/offensive language toward classmates. When attempting to prevent the student from harming others, the student hit a classmate [o]n the arm. The classmate was treated with an ice pack.”

In a follow-up letter to Isaiah’s mother, the Executive Director reported that on the day of the incident she was informed by another faculty member that Isaiah was lying on the floor and would not respond to a teacher assistant’s directions. She reported that based on her investigation of the incident, Isaiah became upset in class and began to behave aggressively, used profanity toward students, directed students to do self-harm, lunged at students, and hit another student with his elbow when they tried to calm him down. She closed her letter by stating that Isaiah allegedly violated the student code of conduct by:

1. Being physically and verbally aggressive to his classmates;
2. Being disruptive to the learning environment;
3. Not being respectful of their classmates well-being by using the statement to “kill yourself”; and
4. Hitting a classmate and causing a minor injury that required ice to be applied.

The consequences authorized for the alleged 14 December 2022 “aggressive behavior” violation are not explicitly stated in TESG’s October 2022 Revised Family Handbook’ (“TESG’s Current Handbook”), which was active at the time of the December 2022 suspension. TESG’s Current Handbook and Student Code of Conduct mentions the word “aggressive” only once and it is in the context of grounds for suspension, exclusion, or expulsion. TESG’s Current Handbook as revised states:

“TESG carefully considers violations to the code of conduct and follows the reasons below for suspensions, exclusions[,] or expulsion of students:

1. on-going emotional or physical abuse not resulting in injury requiring more than first aid of peers or teachers that does not respond to school interventions;
2. serious one-time physical abuse resulting in injuries requiring more than first aid
3. any sexual abuse of peers or teachers; and
4. serious, aggressive threats to the personal safety of others.”

Although Isaiah allegedly hit another student, neither the incident report nor the letter written by TESG’s Executive Director indicate conduct for which TESG now “carefully considers

violations . . . and follows the [4] reasons for suspensions, exclusions, or expulsions of students” because Isaiah alleged conduct, again, did not involve:

1. on-going emotional or physical abuse not resulting in injury requiring more than first aid of peers or teachers that does not respond to school interventions;
2. serious one-time physical abuse resulting in injuries requiring more than first aid;
3. any sexual abuse of peers or teachers; nor
4. serious, aggressive threats to the personal safety of others.

Based on the facts and circumstances, TESG’s Executive Director was still required to act within the authority granted to her under TESG’s Current Handbook. There was no report of ongoing emotional or physical abuse, there was no sexual abuse reported, and there were no serious, aggressive threats to the personal safety of others. Specifically, the Executive Director’s suspension notice and her follow-up letter stated that after Isaiah allegedly hit the other student, the other student sustained “a minor injury.” This minor injury was treated with only an icepack. Therefore, the injury allegedly caused by Isaiah did not meet TESG’s threshold of “requiring more than first aid” as required to suspend a student under TESG’s current Code of Conduct and discipline policies.

In a 14 December 2022 letter, TESG’s attorney attempted to defend TESG’s suspension of Isaiah by saying:

The TESG handbook differentiates between a “Suspension” (i.e. a long-term suspension) and a Short Term Suspension. That is why there's a separate section for short term suspension the handbook is clear that a student may receive a short-term suspension for the same behaviors that can also lead to a Suspension, Exclusion or Expulsion, but that does not mean those are the **only** behaviors for which a short-term suspension can be imposed. Moreover, the handbook is clear that a short-term suspension is the decision of the Executive Director of TESG. As I’ve already shared with [Isaiah’s attorney], [TESG’s Executive Director] has tremendous authority and autonomy under TESG’s short-term suspension policy. In addition, North Carolina General Statute 115C-390.6 plainly states a short-term suspension is not appealable to the Board of Education or subject to judicial review period the decision has been made and is final.

Yet, OCS should find that TESG’s Executive Director again exceeded her authority under N.C.G.C 115C-390.5(a) by suspending Isaiah for purportedly displaying “aggressive behavior” on 14 December 2022 because based on the facts as outlined in the Executive Director’s suspension notice and follow-up letter to Isaiah’s mother, TESG’s Current Handbook did not authorize short-term suspension under the circumstances.

4. Upon information and belief, TEGS likely violated a provision of law, specifically N.C.G.S. § 115C-390.5(c)(2)-(3) (“Short-term suspension”) by denying Isaiah right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment and by denying Isaiah the opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.

Under N.C.G.S. § 115C-390.5(c)(2) (“Short-term suspension”), “[a] student subject to short-term suspension shall be provided . . . [u]pon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.” Additionally, N.C.G.S. § 115C-390.5(c)(3) (“Short-term suspension”), “a student subject to short-term suspension shall be provided . . . the opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period.”

After Isaiah was suspended, TEGS’s Executive Director emailed his mother and told her that Isaiah would be able to access all missing assignments on Google Classroom. During Isaiah’s suspension and in the weeks thereafter, TEGS’s PowerSchool was inaccessible to parents. When asked to provide updates, TEGS administrations and faculty blatantly ignored his mother’s requests. Upon withdrawing from TEGS, these grades remain unknown to Isaiah and his family.

Upon information and belief, TEGS never updated Isaiah’s grades in PowerSchool to reflect his completion of assignments missed during the suspension period. Therefore, Isaiah’s mother could not tell which assignments were unsubmitted versus which assignments were ungraded. She contacted teachers several times about missing assignments and assignments that were inaccessible by Isaiah but did not receive a response. Thereafter, she attempted to sign up for a conference during TEGS’s communicated conference window, but her schedule was severely restricted due to her need to attend several medical appointments. At that time, she contacted TEGS to request an alternate conference time.

Instead of receiving a response from his teachers about his grades, K.O. and undersigned counsel received a letter from TEGS’s attorney chastising K.O. for not signing up for a conference to discuss her concerns with his grades during TEGS’s communicated window. K.O. was told in that letter, by TEGS’s attorney, “[Isaiah]’s mother knows one of the reasons for Isaiah lower grades is due to missing work; I suggest she work with Isaiah to get those assignments turned in as soon as possible.” Yet, without clear communication between TEGS’s teachers to K.O., it was impossible to determine if the “missing” work was inaccessible by Isaiah on Google Classroom or any other platform used by TEGS’s teachers.

Therefore, upon information and belief and based on the deliberate lack of communication to Isaiah’s mother, TEGS likely violated Isaiah’s right to receive all missing assignments from his suspension during the week of September 19, 2022 – September 23, 2022.

Additionally, TEGS never updated Isaiah’s grades in PowerSchool to reflect his completion or non-completion of any quarterly, semester, or grading period examinations missed during the

suspension period. When asked to provide updates, TESH administrations and faculty ignored K.O.'s requests. Accordingly, for the same reasons outlined above regarding missing assignments, TESH likely denied Isaiah the opportunity to take all exams missed during the September 19, 2022 – September 23, 2022 suspension period.

Conclusion

TESH's faculty, staff, administrators, and Board of Directors have without apology overlooked one of the core tenants of its charter application related to suspensions - suspensions do more harm than good for students and society. TESH explicitly stated in family handbooks that it would not, except under extreme circumstances, suspend students, but repeatedly suspended Isaiah without evidence to support a finding of any of the extreme circumstances outlined in its handbooks. TESH's Executive Director imposed two short-term suspensions that exceeded both her statutory authority and the discretion given to her in TESH's handbooks. Yet, TESH never initiated the support services listed in its charter application or handbooks to prepare Isaiah for re-entry to the school. TESH also failed to provide Isaiah, a student with a disability, ongoing support to implement a behavior action plan or revision of support services consultation with experts on Isaiah's condition.

When a school advertises to parents and other stakeholders that it is dedicated to a restorative classroom and a peaceful school as TESH has, that is what it should be dedicated to. The impact of TESH's violations of state statutes, and violations of its own policies on Isaiah and his family has been great. Isaiah and his family should have been able to rely on TESH's administrators, faculty, and staff to provide the interventions and supports listed in TESH's handbook. Instead, they have been forced to homeschool him in an act of vigilance to protect him from being funneled through the school-to-prison pipeline.

There must be accountability for divergence from advertised and promised restorative justice practices and philosophies. Students at TESH deserve to be given the education their parents were promised they would receive. TESH's students should not be subjected to short-term suspensions that violate state law, its own disciplinary policies, and terms of the school's charter agreement without oversight and review of the executive directors "tremendous authority and autonomy under TESH's short term suspension policy".

If short-term suspensions are going to be repeatedly used, TESH should be forced to revise its handbook to reflect their divergence from the belief that suspensions do more harm than good. TESH should be required to document other measures that will be consistently implemented prior to suspension of a student – starting with allowing students to speak and defend themselves at informal suspension hearings.

Proposed Resolutions of the Violations

1. Expunction of the suspension from Isaiah's education and discipline records.
2. Recoding of Isaiah's missed days due to unauthorized suspension as mental health days.

3. Training by [Peaceful Schools NC](#), or another reputable organization, for all TESSG Board members, administrators, faculty, and staff on Peaceful Schools and Restorative Justice practices within 90 days of OCS' investigative decision.
4. Training by Peaceful Schools NC, or another reputable organization, for all TESSG Board members, administrators, faculty, and staff on conflict resolution.
5. Revision of TESSG's Handbook and Student Code of Conduct to show its divergence from the Peaceful Schools protocols.
6. Other remedies deemed appropriate by OCS to address the violations found in investigating this complaint.
7. Require that TESSG report out on all suspensions quarterly to OCS for at least two years.

Regards,

/s/ Crystal S. Ingram, Esq.
Attorney for Isaiah
Legal Aid of North Carolina
Right to Education Project

ⁱ Pseudonym used to protect the student's privacy.

ⁱⁱ K.O.'s PowerSchool access was essential because without access to PowerSchool, she could not confirm if all of Isaiah requested make up work had been graded without penalty or decipher whether Isaiah had the opportunity to complete all missed tests, quizzes, or exams from his suspension period.

ⁱⁱⁱ "According to Netflix, "Stranger Things 4" holds the title as the No. 1 most-watched English TV series in the first four weeks of release, with the fourth season having garnered 1.35 billion hours worldwide in the initial 28-day period." Todd Spangler, *Stranger Things Was Most-Streamed TV Show in 2022*, Variety, (January 26, 2023). <https://variety.com/2023/digital/news/stranger-things-most-streamed-tv-show-2022-1235503095/>

^{iv} Censor square added to protect Teacher A's identity.

^v TESSG's handbook underwent major revisions in October 2022. The former handbook was 117 pages, clearly defined TESSG's principles and core practices, and contained absolutes regarding the authority of the executive director. The current handbook is merely 65 pages, eliminates details regarding its Peaceful Schools protocol, and attempts to expand the conditions under which its executive director can impose short-term suspensions.