**Struggling Without Special Ed Services, Some Opt To Sue**

**by Kristen A. Graham, The Philadelphia Inquirer/TNS**| August 28, 2020

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PHILADELPHIA — The behaviors started a few days after COVID-19 closed schools indefinitely in March: Eleven-year-old Ronan Strouse would bite one arm, issue frequent short, high-pitched yells, bang his leg hard.

Ronan, who has intellectual disability, autism and other complicated conditions, can’t carry on a conversation, but he had words enough to ask his mother: “School sick?” “Yes,” Celine Nace would tell her son. “School is sick.”

As a fifth grader in the Upper Perkiomen School District, Ronan was supposed to have virtual lessons with his teacher, and a host of services such as occupational and speech therapy on the computer, too. But that didn’t work for more than perhaps 10 minutes a week; Ronan would refuse to sit, walk away, unable to grasp or tolerate what he was supposed to do. The problems continued this summer, when he had online-only services as mandated by his special education plan.

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“He got nothing out of it,” Nace said. “He’s not being educated.”

Come next week, school starts again, and Ronan will have three hours of in-person instruction at Upper Perkiomen Middle School four days a week. He’s supposed to spend every afternoon online. That’s untenable, his mother said — and she’s worried he’ll never catch up.

For nearly seven million children nationwide with significant special needs, COVID-19 has been particularly disruptive; the patchwork of all-virtual or hybrid learning plans now offered by schools and districts is inadequate to meet their needs and could bring negative long-term consequences, parents and advocates say. Lawsuits — including a class-action claim that Ronan’s family has joined — allege schools that are not operating in person or offering compensatory services are illegally denying children the services spelled out in their federally mandated, individualized special education plans.

Schools very much want to meet students’ needs, even ones that are complex and costly, said Francisco Negrón, chief legal officer for the National School Boards Association. But the pandemic “has presented quite a challenge for school districts, in particular because depending on the severity of a particular disability, there may be interventions that are difficult to address in a socially distant environment,” he said.

If a student must work toward learning how to hold a pencil, for instance, there’s no way to do that other than having a staffer put their hand on the child’s hand.

Educators and therapists are finding alternative ways to help students, but there are challenges, said Negrón. And, frankly, districts are quite concerned about “a potential rise in demands from parents who don’t understand the challenges.”

At the federal level, the School Boards Association and others are asking Education Secretary Betsy DeVos and Congress for some flexibility in special education requirements during the pandemic, relief that so far has not come.

Special education expenditures typically account for a large and growing share of school budgets, with districts required to invest heavily on personnel, equipment, training and services.

Many districts say they hope to bring special education students back to school or increase their hours in school as soon as health conditions and other considerations allow, but families like Ronan’s say needy students like him cannot wait.

Last week, the boy ping-ponged from activity to activity, zooming on a hoverboard across the light green carpet of his family’s living room, jamming to a Justin Timberlake song blaring from his phone, rocking on a colorful swing set up outside his bedroom, briefly paying attention to an activity on his laptop with help from the care team who assist him.

Nace works full time and won’t be able to manage his schoolwork and the constant redirection Ronan will need during the day. Her family is “white-knuckling it” now to get through the days; she’s not sure how they’ll manage when school begins.

“I don’t want my son to get sick or his teachers to get sick, but this is our societal agreement,” said Nace. “I’m not asking for the sun, the moon and the stars. I’m just asking for what my kid needs.”

Upper Perkiomen school officials did not respond to requests for comment.

Ronan’s is one of 500 families across the country who have signed onto a federal class-action lawsuit filed in New York in July; the number grows daily, said Patrick Donahue, the lawyer who filed the action, which seeks to either force schools to reopen or offer parents vouchers to obtain the services their children need, plus compensatory education and punitive damages for missed months of education.

“There’s no pandemic pass,” said Donahue, who also runs a private school for students with special needs. His school sent workers to offer in-person services in students’ homes when the coronavirus first shut schools; it fully reopened in May. “These are the most vulnerable of our population, and most schools have abandoned these families.”

In this unprecedented situation, the key is families and schools communicating clearly and well, and understanding the tough positions both are in, said Laura Schifter, a special education expert and lecturer at Harvard Graduate School of Education.

“If it’s not safe or healthy to have kids return to the building for learning, you have to do the best you can in other scenarios,” said Schifter. “Schools need to have a really clear plan of what they think they can deliver in terms of services, what’s effective. And they need to check in with families: What’s working with you, to be constantly reflecting and working about how to make it better.”

Even some districts’ plan to bring students with disabilities back earlier than their typical peers is complicated, Schifter said.

“I think a lot of that is coming from a place of really wanting to get kids services, but at the same time, making any decisions solely based on the identification of disability can by nature be discriminating. It can also make it feel like these kids are guinea pigs,” said Schifter.

With two sons who have fragile X syndrome — a rare, genetic condition — Conshohocken mom Keri Akkawi has been hanging on by the skin of her teeth. Girius, 9, and Crosby, 8, attend the Timothy School, the Chester County private school the Colonial School District pays for because it cannot meet the boys’ needs. Classes will remain virtual when school reopens, meaning her children will receive no meaningful instruction or therapies, Akkawi said.

Her boys’ learning goals are things like tracing their initials, typing their names, managing behaviors and routines. At school, there are at least two adults to help them; at home, that’s not possible, as only one adult can typically be with both kids, as Akkawi and her partner, John Barchard, trade off caring for the boys and working. The kids’ aggression and self-injurious behaviors have increased. Crosby now says fewer words; Girius bites, and neither boy is able to use the assisted communications device he used at school, without one-on-one help to manage them.

“They can’t get anything out of lessons on a computer; the second they see a teacher, they lose it,” Akkawi said; the boys miss their teachers and don’t understand why they can’t interact with them and their therapists face to face. “I just don’t have the resources they have at school. If I sit Crosby down and say, ‘Let’s start here and write a letter C,’ it’s a mess.”

As Girius played in the backyard last week, sinking his hands into a plastic bin of sand and smiling to himself, Akkawi considered the pandemic’s grim impact. She lost her job in March and Barchard’s hours were cut; she’s been called back to work and he’s driving for DoorDash, but they haven’t caught up financially and can’t afford private services. They take the boys on walks in the neighborhood, but Girius and Crosby won’t wear masks or face shields, so venturing out farther is impossible.

But the most striking loss has been school and the services that go along with it.

“Every single thing we do is challenging,” Akkawi said. “My kids are being forgotten.”

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