17-1877

IN THE

United States Court of Appeals

FOR THE FOURTH CIRCUIT

T.B., JR., by and through his Parents, T.B., SR. and F.B.,

Plaintiff-Appellant,

—v.—

PRINCE GEORGE'S COUNTY BOARD OF EDUCATION; PRINCE GEORGE'S COUNTY PUBLIC SCHOOLS; DR. KEVIN M. MAXWELL, in his official capacity as Chief Executive Officer of Prince George's County Public Schools,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

BRIEF OF *AMICI CURIAE* COUNCIL OF PARENT ATTORNEYS AND ADVOCATES, INC. AND DISABILITY RIGHTS MARYLAND IN SUPPORT OF APPELLANT AND REVERSAL

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CORPORATE DISCLOSURE STATEMENT

Pursuant to FRAP 26.1 the following disclosure is made on behalf of these entities:

Council of Parent Attorneys and Advocates
Disability Rights Maryland

1. No amicus is a publicly held corporation or other publicly held entity;
2. No amicus has parent corporations; and
3. No amicus has 10% or more of stock owned by a corporation.

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INTERESTS OF THE AMICI

Council of Parent Attorneys and Advocates (COPAA) is an independent, nationwide nonprofit organization of attorneys, advocates, and parents in forty-eight states and the District of Columbia who are routinely involved in special education advocacy and due process hearings throughout the country. COPAA's primary goal is to secure appropriate educational services for children with disabilities, echoing a Congressional finding that "[i]mproving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities." 20 U.S.C. §1400(c)(1) (2006). Children with severe disabilities are among the most vulnerable in our society, and COPAA is particularly concerned with assuring a free appropriate public education in the least restrictive environment, as the Individuals with Disabilities Education Act (IDEA or Act) requires.[1]

Disability Rights Maryland (DRM) is Maryland's designated Protection & Advocacy (P&A) agency, dedicated to advancing the civil rights of people with all types of disabilities. It provides legal representation and/or other advocacy

[1] Pursuant to Fed. R. App. P. 29(5) counsel for COPAA states: (1) Selene Almazan-Altobelli and Catherine Merino Reisman authored the brief in whole with comments from COPAA members; and (2) no other person contributed money that was intended to fund the preparation or submission of the brief. Fed. R. App. P. 29(5).

services in a number of substantive areas, including special education. DRM has a long history of representing students in individual special education cases and in systemic special education reform litigation. DRM also engages in policy work at the local, state and national levels on behalf of students with disabilities, and conducts special education outreach and training sessions for families and professionals. DRM is committed to ensuring that students with disabilities and their families are able to exercise the full panoply of rights guaranteed to them by the Individuals with Disabilities Education Act.

Amici's interest in this case is their deep commitment to ensuring that all children with disabilities obtain needed special education services. The district court committed reversible error in concluding that T.B.'s claims prior to January 13, 2013 were time-barred. The decision below is confusing in that the district court affirms the ruling of the Administrative Law Judge (ALJ) on the use of the occurrence rule to calculate the statute of limitations, District Court Opinion (Op.) at 14, 24. *Amici* submit this brief seeking clarification from this Court that the ALJ's application of the occurrence rule was legal error. Because application of the "occurrence rule" ignores the plain language of IDEA and subverts federal civil rights laws, the district court's holding that the ALJ correctly determined the statute of limitations should be reversed**.**

Appellants, T.B. have consented to this brief; Appellees, Prince George's County, have declined to consent. *Amici* have moved for permission to file this brief.

SUMMARY OF ARGUMENT

For nearly 30 years, the Supreme Court has interpreted the IDEA broadly and advanced the position that Congress, in enacting the statute, did not intend to create a right without a meaningful remedy. *See Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230 (2009); *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516 (2007).

Here, the district court erred by misapplying the plain language of the statute, which makes clear that IDEA's statute of limitations starts to run when the parents knew or should have known about the facts which give rise to their cause of action (discovery rule), not when the events occurred (occurrence rule). Although the district court stated that it was following *G.L. v. Ligonier Valley Sch. Dist. Auth.*, 802 F.3d 601 (3d Cir. 2015), it actually did not apply *the discovery rule* correctly. The result is a decision that is confusing and inconsistent with application of the discovery rule.[2]

[2] Appellants correctly note that the district court also held that, notwithstanding the statute of limitations, if the school district violated IDEA, T.B. would have been entitled to relief for the entire period of deprivation. Dist. Ct. Mem. at 14 (162a). Thus, T.B. is not aggrieved by the district court's flawed reasoning, if this Court agrees that the school district committed a child find violation. However, if left standing, the district court's decision on statute of limitations will be misleading to future litigants.

The discovery rule fits within the larger context of IDEA's goal of ensuring appropriate education for all children with disabilities. If school district personnel, with all their training and experience, failed to evaluate T.B. for special education, his parents, likewise should not be charged with knowledge of facts necessary to establish their cause of action.

The approach used by *Amici* encourages school districts to vigorously pursue their child find obligations and ensure children with disabilities have a full and meaningful remedy as Congress intended. The district court's approach, by contrast, frustrates the Congressional mandate in IDEA to "enabl[e] each child with special needs to reach his or her full potential." *Id.* at 626.

ARGUMENT

A. Federal Courts Consider the Plain Meaning of Statutory Language as Well as Statutory Purpose in Construing Federal Law

"When . . . statutory 'language is plain, the sole function of the courts - at least where the disposition required by the text is not absurd - is to enforce it according to its terms.'" *Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291, 296-97 (2006) (quoting *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 6 (2000) (citations omitted)). Thus, federal courts proceed with the understanding that, unless otherwise defined, statutory terms should be interpreted in accordance with their ordinary meaning. *Sebelius*

v. Cloer, 569 U.S. 369, 376 (2013); *see also Octane Fitness, L.L.C. v. ICON Health & Fitness, Inc.*, *13*4 S. Ct. 1749, 1756 (2014); *People for Ethical Treatment of Animals v. United States Dep't of Agric.*, 861 F.3d 502, 509 (4th Cir. 2017).

At the same time, courts do not construe federal laws "in a vacuum. It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the statutory scheme." *Sturgeon v. Frost*, 136 S. Ct. 1061, 1070 (2016) (quoting *Roberts v. Sea-Land Servs.*, 566 U.S. 93, 101 (2012)); *see also King v. Burwell*, 135 S. Ct. 2480, 2489 (2015); *McDonnell v. United States*, 136 S. Ct. 2355, 2368 (2016); *Kasten v. Saint-Gobain Performance Plastics Corp*., 563 U.S.1, 7 (2011) (courts interpret statutes by considering purpose and context, and consulting any precedents or authorities that inform the analysis). This approach makes "statutes into more coherent schemes for the accomplishment of specified goals than they might otherwise be." David M. Driesen, *Purposeless Construction*, 48 Wake Forest L. Rev. 97, 128 (2013).

As Professor Driesen notes:

> Coherence in turn helps legitimate law. To the extent we treat statutes as coherent schemes for accomplishing public ends, the law commands respect and obedience. Hence, when judges create rationales for statutory construction tying particular results to public objectives motivating congressional enactment, they increase the likelihood of faithful administration of the law, public acceptance of the law, and compliance with the law.

48 Wake Forest L. Rev. at 128. When the statutory language is unambiguous and the statutory scheme coherent and consistent, judicial inquiry ceases. *Sebelius v. Cloer*, 569 U.S. 369, 380 (2013).

Sebelius is instructive. In that case, the Court rejected a statutory interpretation of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. 300aa-1, *et seq.* (NCVIA) based upon inconsistency with plain language and statutory purpose. The Court rejected the federal government's proposed definition of the term "filed," because it is commonly understood that a claim is "filed" when it is delivered to and accepted by the appropriate court. *Sebelius*, 569 U.S. at 379. Further, the Court observed, the government's position would undermine the goals of the fee provision in the NCVIA. A stated purpose of the fee provision was to enhance the opportunity for individuals to present claims by making fee awards available for "non-prevailing good faith claims." *Id.* at 1893 (citation omitted). The government's interpretation would have discouraged counsel from representing NCVIA petitioners, which would undermine the statutory purpose.

Following this precedent, in construing IDEA's statute of limitations [20 U.S.C. §1415(f)(3)(C)] and a school district's child find obligations[20 U.S.C. §1412(a)(3)], federal courts must consider both the plain meaning of the statute and the overall objective to ensure appropriate education for children with disabilities.

B. Because IDEA Places a Child Find Obligation on School Districts In Order to Locate and Serve All Children With Disabilities, the Discovery Rule Effectuates the Statutory Purpose

IDEA has an indisputable and well-recognized statutory purpose. For decades preceding passage of the Education for All Handicapped Children Act (IDEA's predecessor), "school districts routinely denied children with disabilities an adequate education. They provided no educational assistance or accommodations to disabled children in school, 'warehoused' children in institutions thereby segregating them from their non-disabled peers, or excluded them from school altogether." Jennifer Rosen Valverde, *A Poor IDEA: Statute of Limitations Decisions Cement Second-Class Remedial Scheme for Low-Income Children in the Third Circuit*, 41 Fordham Urb. L.J. 599, 600-01 (2013). In the 1970s, Congress held hearings investigating the quality of educational instruction provided to children with disabilities. These hearings established that public school districts throughout the county had wholly excluded millions of children with a multitude of disabilities or placed those children in programs where they received no educational benefit. IDEA, in response to these circumstances, "seeks 'to ensure that all children with disabilities have available to them a [FAPE]." *Avila v. Spokane Sch. Dist. 81*, 852 F.3d 936, 939 (9th Cir. 2017) (quoting 20 U.S.C. § 1400(d)(1)(A)).

Thus, IDEA "was designed to reverse a history of educational neglect" for children with disabilities. *Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105, 1109 (9th Cir. 2016) (citing *Schaffer v. Weast*, 546 U.S. 49, 52 (2005)). "At the time of its passage, the need for institutional reform was pervasive: millions of children with a multitude of disabilities were entirely excluded from public schools, and others, while present, could not benefit from the experience because of undiagnosed – and therefore unaddressed – disabilities." *Id.* (citing 20 U.S.C. § 1400(c)(2)). IDEA attempts to remedy these systemic problems by ensuring a free appropriate public education (FAPE) for all children with disabilities between the ages of three and twenty-one. *Id.* at 1110.

Critically, IDEA imposes a "child find" obligation on the states and school districts:

> In order to provide a free appropriate public education to all children with disabilities States must, of course, first identify those children and evaluate their disabling conditions. Accordingly, the IDEA requires that every State have procedures in place that are designed to identify children who may need special education services. Id. § 1412(a)(3)(A). Once identified, those children must be evaluated and assessed for all suspected disabilities so that the school district can begin the process of determining what special education and related services will address the child's individual needs. See id. §§ 1412(a)(7), 1414(a)-(c). That this evaluation is done early, thoroughly, and reliably is of extreme importance to the education of children. Otherwise, many disabilities will go undiagnosed, neglected, or improperly treated in the classroom.

Timothy O., 822 F.3d at 1110; *Forest Grove Sch. Dist.*, 557 U.S. at 245.

The child find obligation is a "profound responsibility, with the power to change the trajectory of a child's life." *Ligonier*, 802 F.3d at 625. Therefore, "when a school district has failed in that responsibility and parents have taken appropriate and timely action under IDEA, then that child is entitled to be made whole with nothing less than a 'complete' remedy. 802 F.3d at 625 (citing *Forest Grove*, 557 U.S. at 244).

IDEA's statutory purpose thus places the burden of Child Find on school districts, not parents, and, therefore, courts should apply the Discovery Rule for the Statute of Limitations. As discussed in the next section, the decision below undermines this statutory purpose. The district court incorrectly imputes knowledge to the parents both that T.B. fit IDEA's definition of disability and also that he needed special education. In so doing, the court ignored the statutory language and improperly limited T.B's recovery for the school district's child find violation. This holding is in direct conflict with both explicit statutory language and IDEA's purpose.

C. The District Court Erred in Holding that Parents Knew or Should Have Known All Facts Relevant to the IDEA Claim as of November 7, 2012

1. IDEA Relies Upon a Discovery Rule, Not a Strict Occurrence Rule, to Determine the Statute of Limitations

When raising a statute of limitations defense, the burden is on the defendant to demonstrate that a reasonably diligent plaintiff would have discovered the

violations. *Drew v. Equifax Info. Servs.*, 690 F.3d 1100, 1110 (9th Cir. 2012); *Strategic Diversity, Inc. v. Alchemix Corp.*, 666 F.3d 1197, 1206 (9th Cir. 2012). This burden is appropriate because statutes of limitations are an affirmative defense, upon which the defendant bears the burden of proof. *Payan v. Aramark Mgmt. Servs. L.P.*, 495 F.3d 1119, 1122-23 (9th Cir. 2007).

In the 2004 reauthorization of IDEA, Congress adopted, for the first time, a uniform federal statute of limitations, which states:

> A parent or agency shall request an impartial due process hearing within 2 years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint . . . .

20 U.S.C. § 1415(f)(3)(C).

Based on this language, "Congress did not intend the IDEA's statute of limitations to be governed by a strict occurrence rule." *Avila*, 852 F.3d at 941. "If Congress intended a strict occurrence rule, there would have been no need to include the 'knew or should have known' language." *Id.* at 942.

Interpreting this provision in *Ligonier, supra*, the Third Circuit Court of Appeals correctly concluded that IDEA adopted the "discovery rule" for special education claims. "When fashioning a statute of limitations, a legislature may choose as the date from which the limitations period begins to run either the date the injury actually occurred, an approach known as the 'occurrence rule,' or the date the aggrieved party knew or should have known of the injury, that is the

'discovery rule'." 802 F.3d at 613 (citing *Knopick v. Connelly*, 639 F.3d 600, 607 (3d Cir. 2011)). The discovery rule provides that the statute of limitation does not begin to run on "the date on which the wrong that injures the plaintiff occurs, but the date on which the plaintiff *discovers* that he or she has been injured." *Id.* (quoting *Oshiver v. Levin, Fishbein, Sedran & Berman*, 38 F.3d 1380, 1385 (3d Cir. 1994)).

In *Avila*, the court recognized that parents' knowledge of a *fact* does not equate to knowledge of the *legal harm.* The "knew or should have known" date "stems from when parents know or have reason to know of an alleged denial of a free appropriate public education under the IDEA, not necessarily when the parents became aware that the district acted or failed to act." 852 F.3d at 944 (citing *Somoza v. N.Y. City Dep't of Educ.*, 538 F.3d 106, 114 (2d Cir 2008) and *Draper v. Atlanta Indep. Sch. Sys.*, 518 F.3d 1275, 1288 (11th Cir. 2008)).

That the IDEA language of "knew or should have known" indicates a discovery rule is consistent with court interpretations of other statutory provisions. The discovery rule applies, and the limitations period begins to run when the plaintiff knows the ***injury*** that is the basis of the action. *Lyons v. Michael & Assoc.*, 824 F.3d 1169, 1171 (9th Cir. 2016). In *Lyons*, a debt collector filed a suit against the plaintiff on December 7, 2011. The debt collector violated federal law when it filed the lawsuit, by suing the plaintiff in the wrong county so she learned of the

lawsuit when she received service of process in mid-January of 2012. She filed her case against the debt collector within a year of being served with process. This Court rejected the debt collector's argument that the statute of limitations began running on the date that of filing because the discovery rule controlled. The plaintiff did not know or should have known of her injury (the violation of federal law) until she received service of process, rendering her complaint timely. *Id.* at 1171-72.

In *Merck & Co. v. Reynolds*, 559 U.S. 633 (2010), in the securities law context, the Court explained what it means to "discover the facts constituting the violation." *Id.* at 638. In order to have a claim for securities fraud, a plaintiff must know that there was a misrepresentation ***and*** that the wrongdoer made the representation knowingly (with scienter). *Merck* clarifies that the statute of limitations did not begin to run until the plaintiffs knew or should have known that the defendant acted with scienter.

The court thus found it would frustrate the very purpose of the discovery rule if the limitations period began to run regardless of whether a plaintiff had discovered *all* the facts necessary to prove the claim, including. the mental state of the defendant, which "constitutes an important and necessary element of a [securities fraud] 'violation.'" *Id.* at 648. "A plaintiff cannot recover without proving that a defendant made a material misstatement *with an intent to deceive* –

not merely innocently or negligently." *Id.* at 649 (citing *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 319 (2007).

The Court explained:

> An incorrect prediction about a firm's future earnings, by itself, does not automatically tell us whether the speaker deliberately lied or just made an innocent (and therefore nonactionable) error. Hence, the statute may require "discovery" of scienter-related facts beyond the facts that show a statement (or omission) to be materially false or misleading.

Id. at 650. Thus, "the limitations period . . . begins to run once the plaintiff did discover or a reasonably diligent plaintiff would have 'discover[ed] the facts constituting the violation' – whichever comes first." *Id.* at 653.

In considering the "discovery" rule, a plaintiff should not be charged with knowledge of a harm when the defendants are presumably experts and themselves did not have that knowledge. *Winter v. United States*, 244 F.3d 1088 (9th Cir. 2001) (where "not even the doctors knew of the probable general medical cause," a medical malpractice claim does not accrue); *see also Rosales v. United States*, 834 F.3d 799, 803-805 (9th Cir. 1987). In IDEA cases, parents should not be charged with knowledge of the harm when the school officials assured the parents that the student did not have a disability under IDEA.

2. In this Case, the District Court Misconstrued *Ligonier* And Erred When It Concluded that the ALJ's Calculation of the Limitations Period was Correct

In this case, the ALJ started with the date the due process complaint was filed and looked backward for two years to determine the statute of limitations. *Op.* at 13-14. Because the parents filed for due process on January 13, 2015, the ALJ "found that only violations occurring after January 13, 2013 could be used to state a claim." *Op.* at 14. The district court committed a crucial error in concluding that "the ALJ's approach of starting with the date the complaint was filed, looking backward two years, and including any violations within that two year period, is nothing more than a functional, efficient device to determine which claims are time-barred." *Id.* at 13-14. The ALJ's calculation presumes that parents knew or should have known prior to January 2013 that T.B. suffered a legal injury. In fact, the ALJ applied an occurrence analysis, finding that the parents knew of the alleged violation "as of November 7, 2012 (the date of the IEP team meeting)." 2016 U.S. Dist. LEXIS 174512, at *18 n.13. When Congress passed the 2004 amendments, it rejected language in the House bill that would have used the occurrence rule to determine the statute of limitations. *G.L.*, 802 F.3d at 622.

November 2012 was years before the educators concluded that T.B. was IDEA-eligible, and at a time when the educators had advised the parents that the student did not have a disability under IDEA. It was legal error to impute

knowledge to parents as of that date. To be IDEA-eligible, a student must have a qualifying disability *and*, by reason of that disability, need special education and related services. 20 U.S.C. § 1410(A)(ii); 34 C.F.R. § 300.8(a)(1). "Special education" has a specific statutory and regulatory definition – "specially designed instruction, . . .to meet the unique needs of a child with a disability." 20 U.S.C. § 1402(29); 34 C.F.R. § 300.39(a)(1). "Specially designed instruction" means "adapting, as appropriate to the needs of an eligible child under this part, the content, methodology or delivery of instruction (i) to address the unique needs of the child that result from the child's disability; and (ii) to ensure access of the child to the general curriculum." 39 C.F.R. § 300.39(b)(3).

Disability by itself, without a need for specially designed instruction, does not qualify a child for special education under IDEA. *See, e.g.,* L.*J. v. Pittsburg Unified Sch. Dist.*, 835 F.3d 1168, 1175 (9th Cir. 2016) (child with a disability "does not qualify for special education services if support provided through the regular school program is sufficient"); *Hood v. Encinitas Union Sch. Dist.*, 486 F.3d 1099, 1109 (9th Cir. 2007) (student not eligible for IDEA because accommodation plan could meet her needs); *Alvin Indep. Sch. Dist. v. A.D. ex rel. Patricia F.*, 503 F.3d 378, 384 (5th Cir. 2007) (student with attention deficit hyperactivity disorder not eligible under IDEA because he did not need special

education) (student with attention deficit hyperactivity disorder not eligible under IDEA because he did not need special education).

Without any analysis, the district court affirmed the administrative law judge's conclusion that as of November 7, 2012, "the Parents knew or should have known all the facts supporting any alleged violation of the Student's rights under IDEA prior to that date." 2016 U.S. Dist. LEXIS 174512, at *18 n.13. However, the record compels the conclusion that parents did not have notice that the school district was violating T.B.'s rights. Indeed, the district court could "not say that the school overlooked clear signs of either a learning disability or an emotional disability." *Id.* at *26. If educators charged with "child find" duties could not reasonably have known of T.B.'s eligibility, it is impossible to conclude that his parents knew or should have known of his eligibility in November 2012.

In this case, the ALJ and district court misapplied the statute of limitations when they wrongly concluded that parental knowledge that a meeting occurred amounted to knowledge that the school district was violating T.B.'s rights. "[W]here parents neither knew nor reasonably should have known of the special needs of their child or of the educational system's failure to respond appropriately to those needs, the other partner in this endeavor - the school district itself - still has its independent duty to identify those needs within a reasonable time period and to work with the parents and the IEP team to expeditiously design and

implement an appropriate program of remedial support. . . . This is a profound responsibility with the power to change the trajectory of a child's life." 802 F.3d at 625.

3. IDEA's Legislative History Confirms That the District Court Erred in Its Application of the Discovery Rule

"[T]he broader context of the IDEA shows that it has a wide-ranging remedial purpose intended to protect the rights of children with disabilities and their parents." *Avila*, 852 F.3d at 943. Further, Congress, by imposing a "child find" acknowledged "the paramount importance of properly identifying each child eligible for services." *Forest Grove*, 557 U.S. at 245.

The district court's application of the statute of limitations is wholly inconsistent with the legislative history surrounding adoption of the statute of limitations. The 2004 amendments implemented the statute of limitations. The House of Representatives' proposal was for a one-year limitations period that relied on the occurrence rule, requiring that a complaint "set forth a violation that occurred not more than one year before the complaint is filed." H.R. Rep. 108-77, at 36. The Senate version of the bill rejected the occurrence rule and instead used language reflecting the discovery rule: "A parent or public agency shall request an impartial due process hearing within 2 years of the date the parent or public agency knew or should have known about the alleged action that forms the basis of the

complaint." S. Rep. 108-185, at 222 (2003). Analyzing this history, the Third Circuit Court of Appeals, in *Ligonier* concluded that the drafters intended to draft a single statute of limitations based on the discovery rule, as set forth in the Senate version of the bill:

> Far from Congress intending that the two limitations periods diverge or limit a court's remedial power under § 1415(i), the legislative history reflects that the drafters intended the amendments to add a single statute of limitations and to leave untouched the IDEA's broad remedies. For example, in its explanation of the addition of the statute of limitations, the Senate report stated:
>
> > This new provision is not intended to alter the principle under IDEA that children may receive compensatory education services, as affirmed in *School Comm. of Burlington v. Department of Education of Massachusetts*, 471 U.S. 359 (1985)and *Florence County School District Four v. Carter*, 510 U.S. 7 (1993)and otherwise limited under section [1412(a)(10)(C)] . . . . In essence, where the issue giving rise to the claim is more than two years old and not ongoing, the claim is barred; **where the conduct or services at issue are ongoing to the previous two years, the claim for compensatory education services may be made on the basis of the most recent conduct or services and the conduct or services that were more than two years old at the time of due process or the private placement** . . . .
>
> S. Rep. 108-185, 40 (emphasis added).

802 F.3d at 623-24. As such, Congressional intent coincides with *Amici's* Position.

CONCLUSION

The district court committed reversible error in concluding that "only violations occurring after January 13, 2013 could be used to state a claim." *Op.* at

14. For the reasons set forth in appellants' opening brief, the district court also erred in determining there was no "child find" violation. The decision below, which misconstrues *Ligonier*, ignores the plain language of IDEA and subverts federal civil rights laws, should be reversed and remanded with instructions to enter judgment in favor of T.B. and award an appropriate amount of compensatory education.

November 7, 2017

Respectfully Submitted,
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Certificate of Compliance

1. This brief complies with the type-volume limitations of Fed. R. App. P. 32(a)(7)(B) because:

this brief contains 4,414 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

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November 7, 2017

Respectfully Submitted,

/s/ Selene Almazan-Altobelli
Selene Almazan-Altobelli

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system on the 7th of November 2017. I certify that all participants are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system to:

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