

BEFORE THE LEGAL DIVISION OF THE
LOUISIANA DEPARTMENT OF EDUCATION

E. A., *et al.*, on behalf of themselves and all
similarly situated students,)

Petitioners,)

v.)

Louisiana Department of Education, Louisiana)

Respondents.)

Typically, reformers have left behind those students who would most benefit from innovative

educational practices. New Orleans' students with disabilities have waited almost five-years to reap the benefits of educational reform—languishing in schools that have consistently failed to meet their needs. Federal law demands an end to this wait. The Louisiana Department of

disabilities graduate.¹ A recent survey found that 37 percent of special education students who

attend charter schools in New Orleans perform well below grade level and 17 percent perform

below grade level.² The Recovery School District punishes students with disabilities at a rate

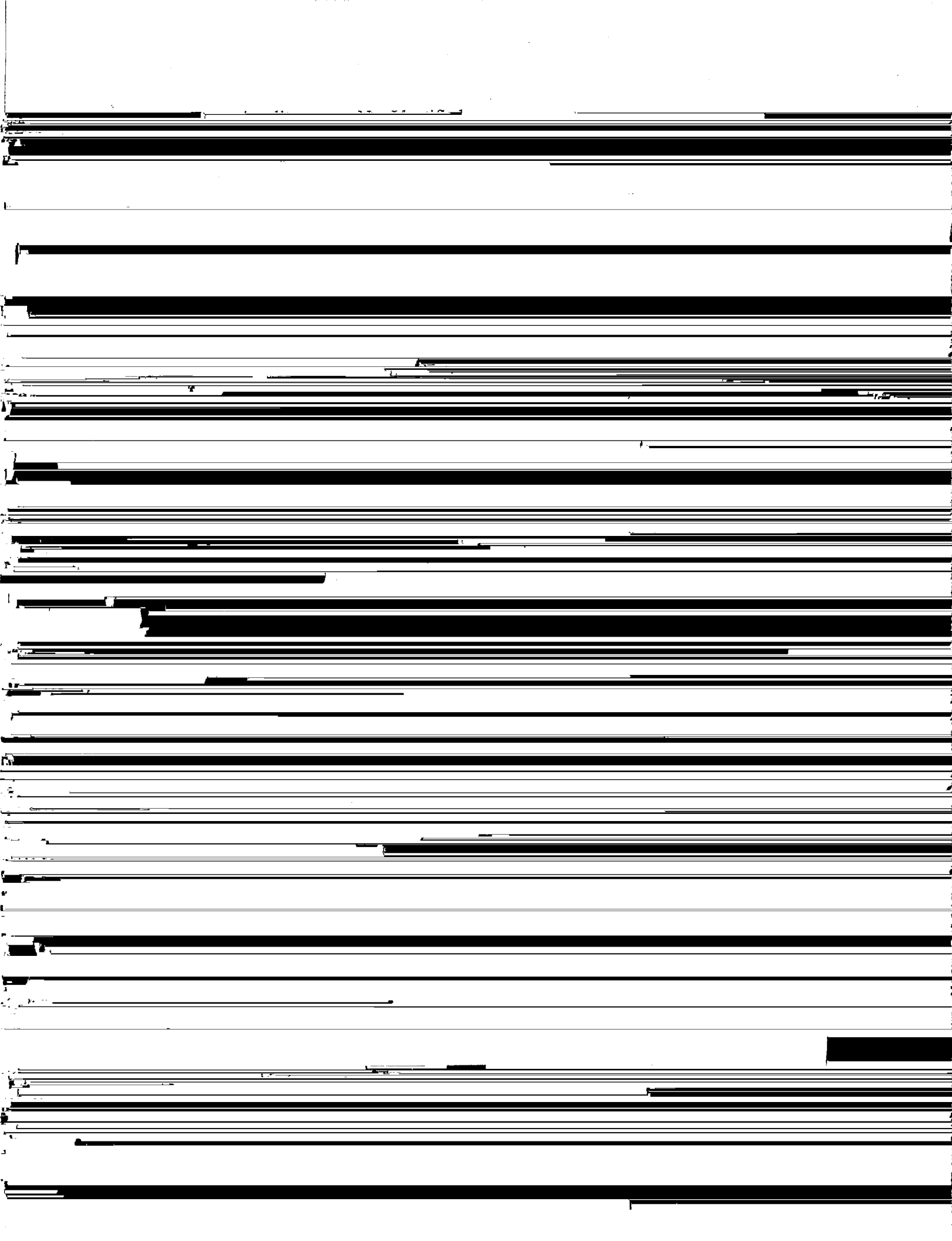
Grade: 7th Grade
School: [REDACTED] Charter School
Exceptionality: Not Identified
Parent/Guardian: [REDACTED]
Telephone: [REDACTED]
Address: [REDACTED]
New Orleans, [REDACTED]

2 Student's Name: D [REDACTED] R [REDACTED]
[REDACTED]

[REDACTED]

New Orleans, LA [REDACTED]

7. Student's Name: K [REDACTED] J [REDACTED]
D.O.B.: [REDACTED]
Grade: 7th Grade
School: [REDACTED] Charter School



the 23 schools operated by the state under the Recovery School District ("RSD")⁴ and the 12

[REDACTED]

Class actions were established to resolve the exact sort of persistent and pervasive

systemic violations that are alleged in this due process complaint. As a result of the actions and

the class.

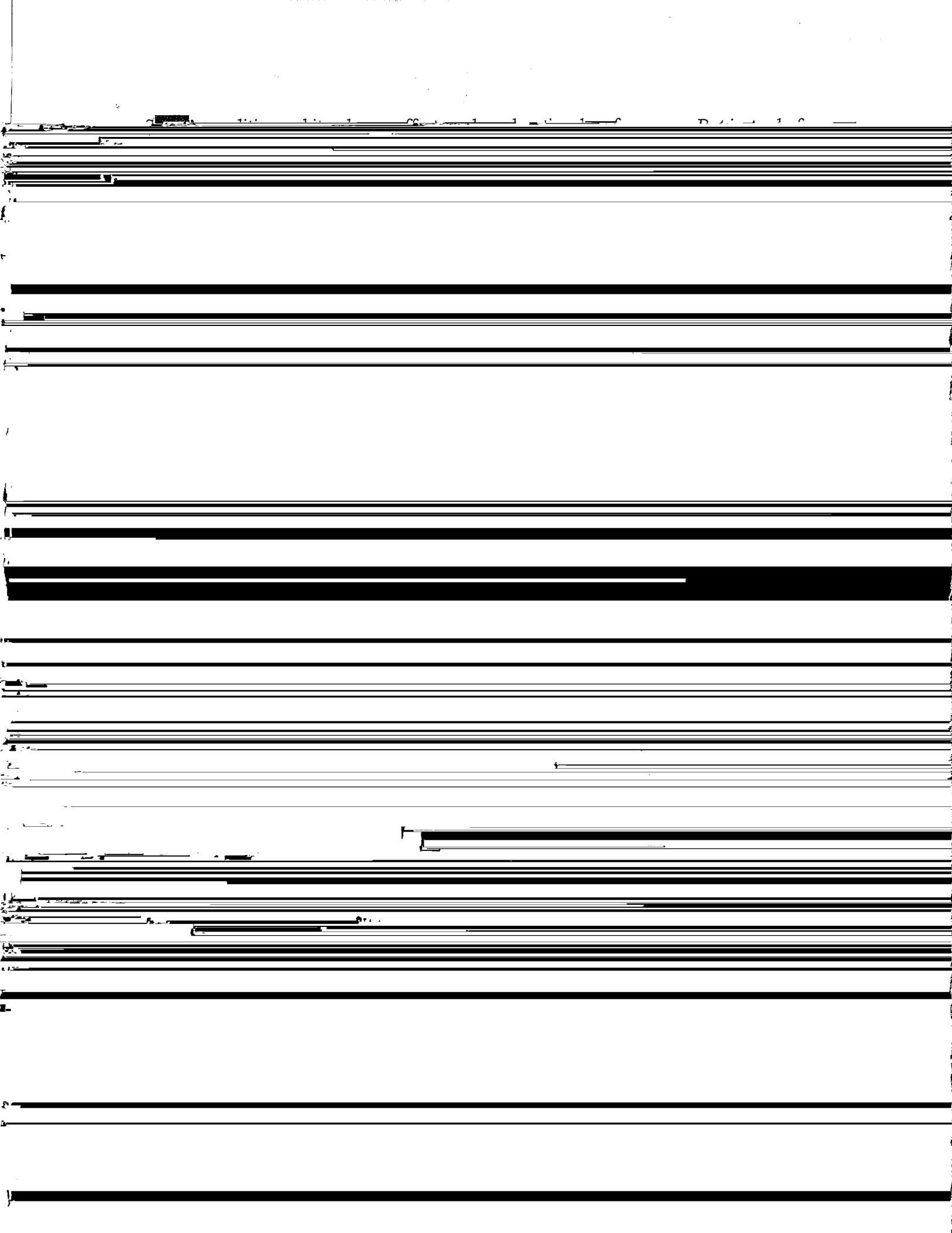
1. **The proposed class is so numerous that joinder is impracticable.**

The class is defined as all students with disabilities, who now attend or who will in the future attend public school in New Orleans, Louisiana, including those identified as students with exceptionalities and those unidentified as students with exceptionalities. This is a class of students who are currently attending or will attend public school in New Orleans, Louisiana, including those identified as students with exceptionalities and those unidentified as students with exceptionalities.

interests of the absentees will be fairly and adequately represented. See General *LTA Co.* of

See *Northwest v. Federal* 457 U.S. 147, 157, 17 (1982). Cf. *International Union of*

The Louisiana Department of Education has called for the following information:



referral form states "At this point due to S [redacted]'s self-injurious behaviors and her disruption of

the learning environment, it is recommended that she be expelled." See Appx. pg. 100. After the SBLC issued its expulsion recommendation, the principal telephoned S [redacted]'s mother and told

In November 2009, Q [REDACTED]'s parents submitted a written request for an evaluation to school personnel. Although federal law requires the school to initiate an evaluation upon

parental request, the school never responded and failed to conduct an evaluation. See 20 U.S.C.

Appx. pg. 460-463. On a number of occasions, school officials simply demanded that K [REDACTED]

leave the school campus after his disability manifested in behaviors that violated the [REDACTED]

[REDACTED]

impaired his ability to obtain an education, [REDACTED] School never
evaluated [REDACTED] for eligibility under IDEA.

J [REDACTED]'s demonstrated inability to make adequate academic progress, he still has not been evaluated to determine his eligibility for IDEA services and supports.

5. M [REDACTED] T [REDACTED]
Violation of Child Find Mandate

M [REDACTED] T [REDACTED] is a 13-year-old sixth grade student attending [REDACTED], an RSD alternative school. He lives with his mother, [REDACTED], and loves sports and music. M [REDACTED] manifests behaviors typical of a child with ADHD. He has difficulty sitting still and displays impulsive and sometimes disruptive behavior. See Appx. pgs. 700-702. Despite these symptoms and severe academic deficits, he has never been evaluated to determine if he is a student with a disability under IDEA.

M [REDACTED] has been retained in both the first grade and the fourth grade. For three

██████████ recognized that M██████████'s well documented academic and behavioral

school days. See Appx. pgs. 405, 411, 416, 419, 421, 422. All of his suspensions were for

behaviors related to his disability, such as running in the halls, refusing to sit down, disruptive

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

... a professional to provide him with individualized support in the classroom. The

impossible to reach. See Appx. pg. 365. Similarly, N[REDACTED]'s total visual impairment reflects a

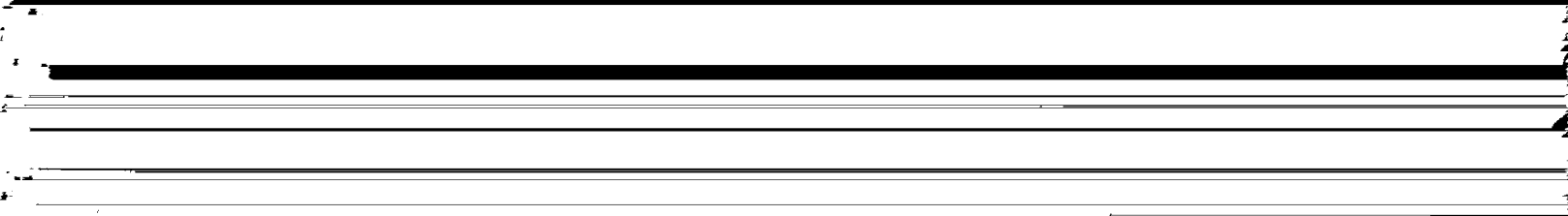
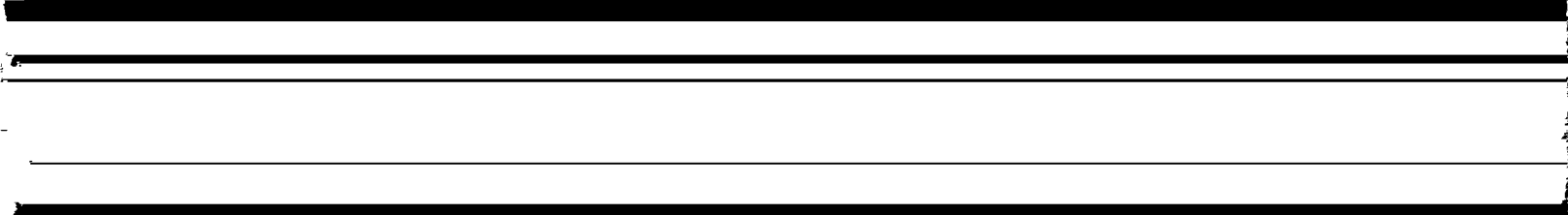
need for orientation and mobility services, but his IED includes no such services. See Appx. pg.

365.

The United States Department of Education emphasizes the critical need for orientation and mobility services for each blind and visually impaired child so that the child is capable of safely moving throughout his school, home, and community environments. See *Educating Blind and Visually Impaired Students: Policy Guidance from the Office of Special Education and Rehabilitative Services OSERS*, 65 FR 36586 (June 8, 2000). The IDEA requires the provision of related services, including orientation and mobility services, to students with disabilities. 34

IDEA § 200.24. The failure to provide N[REDACTED] related services has prevented 34

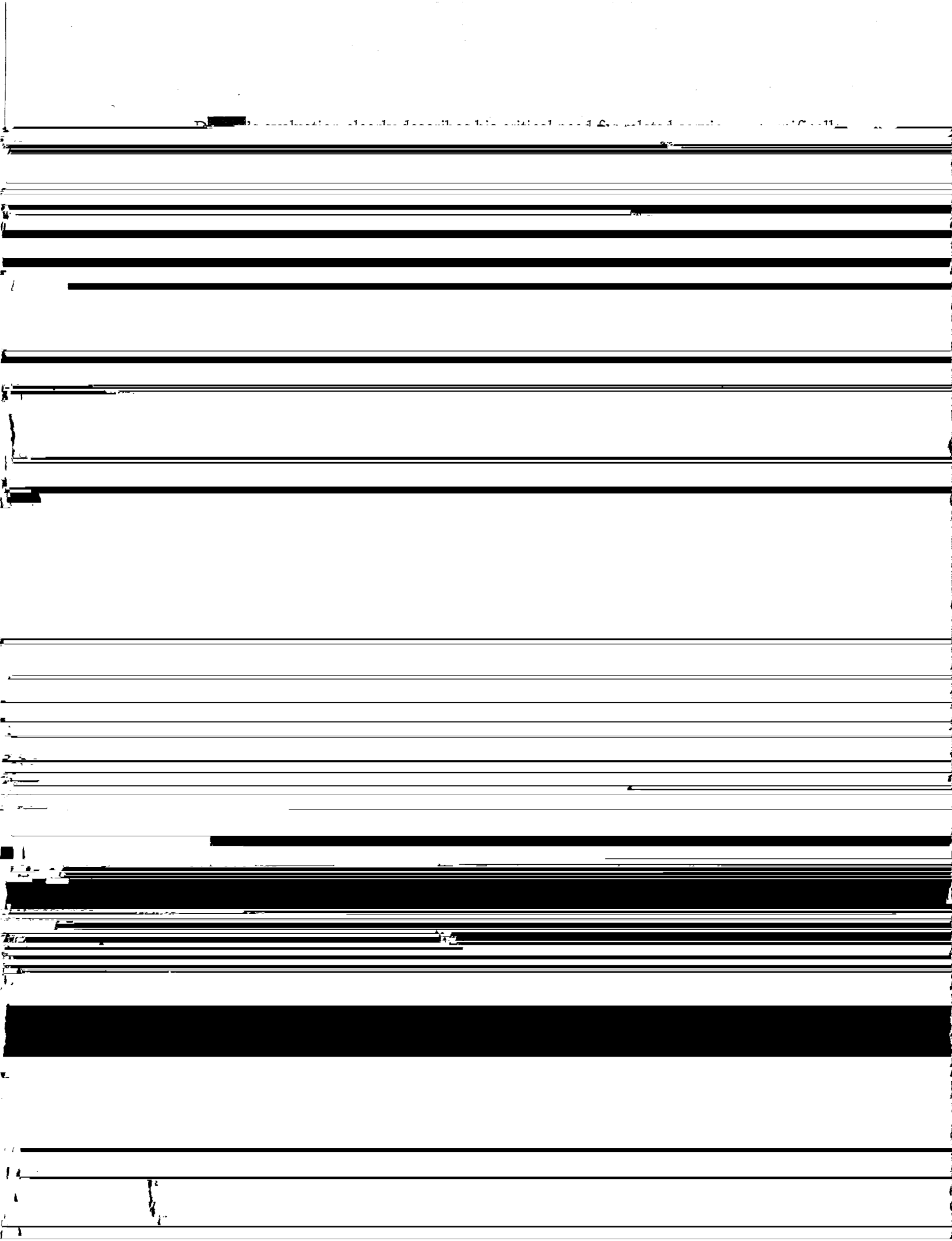
disabilities. 34 C.F.R. § 300.109. "The State must ensure that each public agency takes steps to ensure that its children with disabilities have available to them the variety of educational



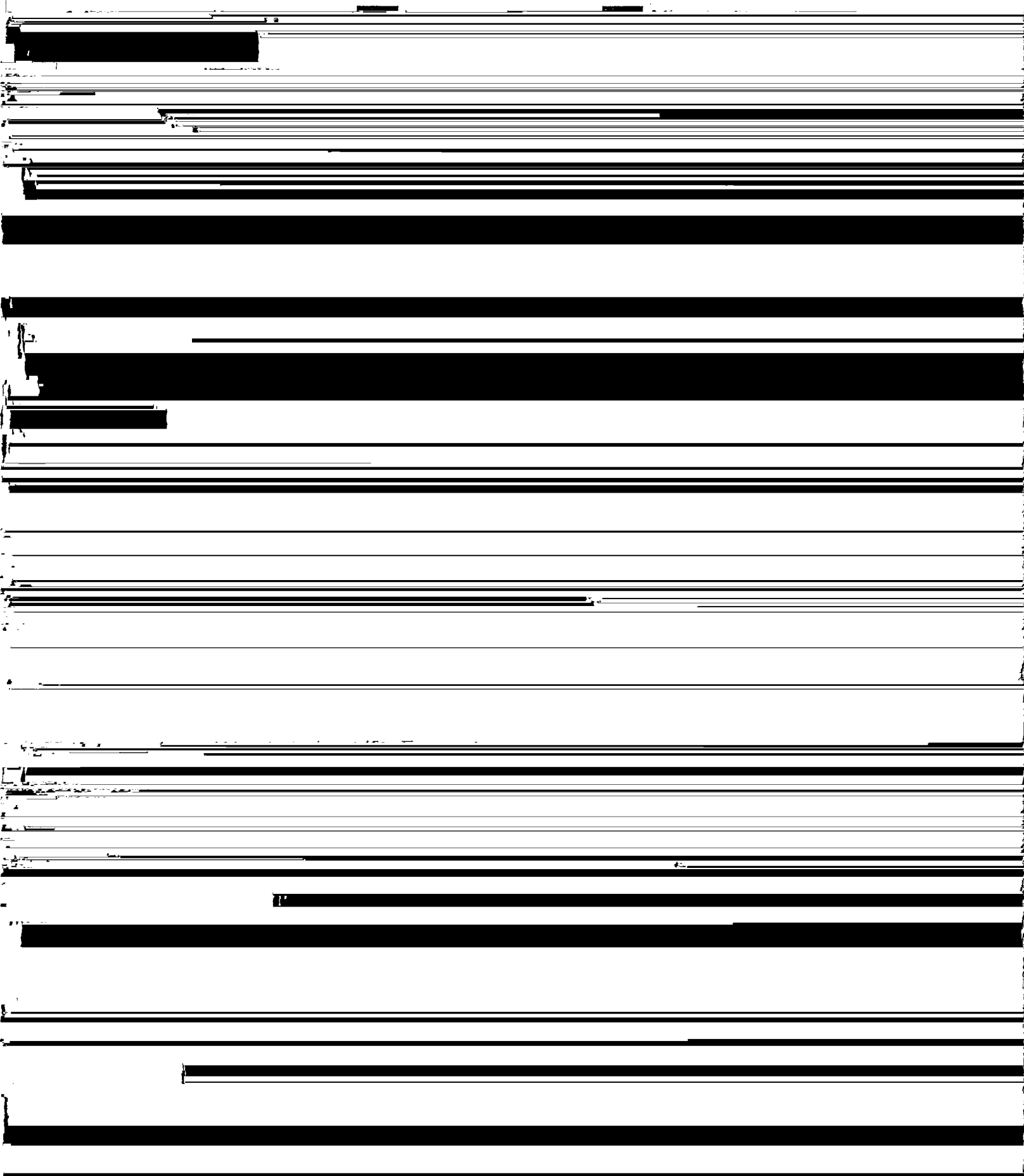
needs. The special education coordinator was unavailable, but the mothers left detailed messages informing her about their sons' needs. The school failed to respond to either parent.

Mrs. [REDACTED] attempted to contact several other schools to discuss the educational programs and services that could be provided to M[REDACTED]. She telephoned [REDACTED] Charter

social studies. See Army no. 170. D [redacted] has clearly made little academic progress since he.



calmed down, but when the behavior interventionist began escorting him to the in-school-



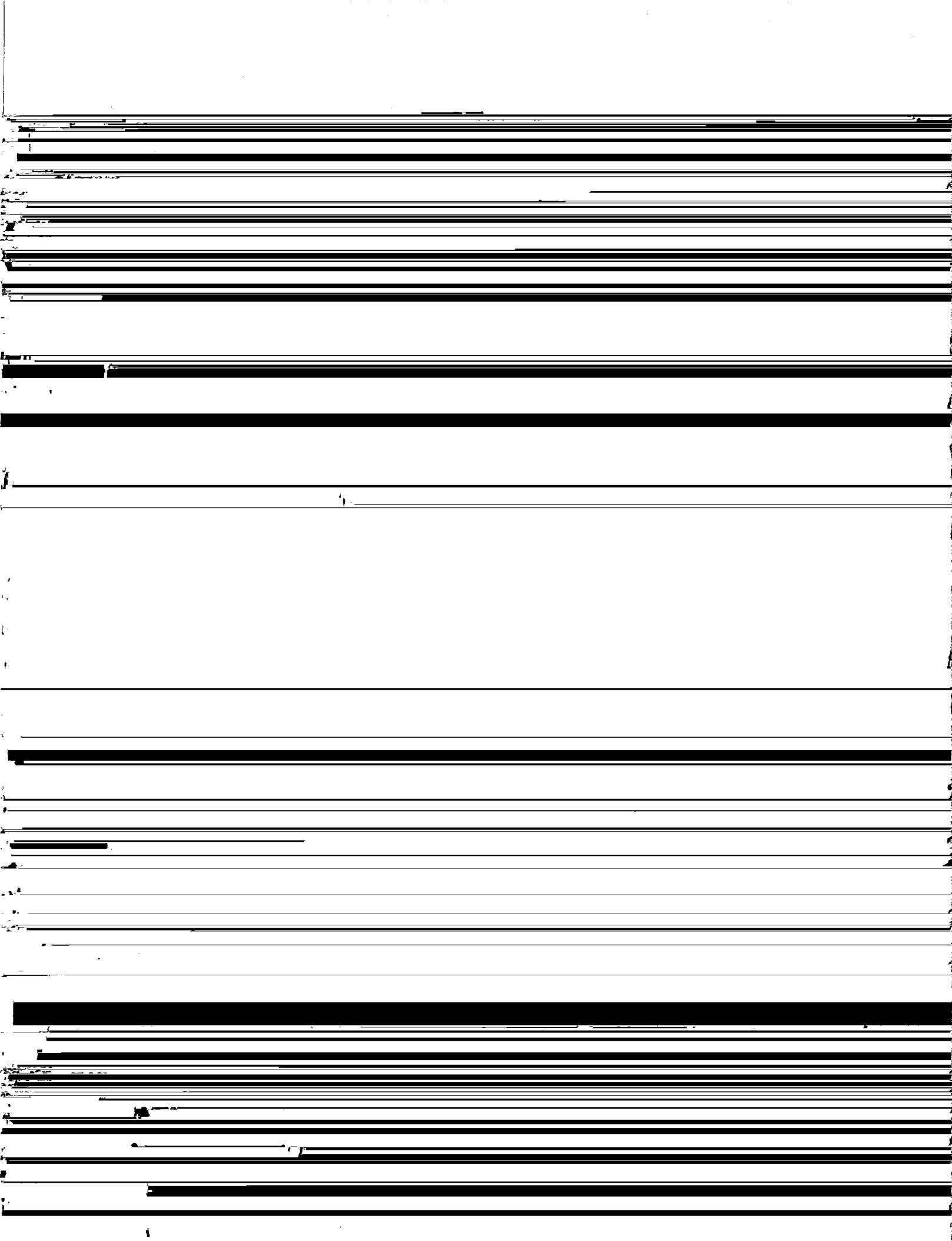
helpful young man who is good with his hands and likes to fix broken household items. He is

document that fails to meet IDEA criteria. See Appx. pgs. 813-817. See also 34 C.F.R. § 8

objectives, a list of any necessary accommodations, or a description of the special education, related services, and supplementary aids and services to be provided. See Appx. pgs. 813-17. His previous IEPs from [REDACTED] contain generic goals that are not tailored to L [REDACTED]'s

of his disability were major contributors to his academic challenges. See Annx. pg. 818, 827.

social work, counseling, or psychological services that would help L. obtain some



On December 17, 2008, I [REDACTED] was again recommended for expulsion for an alleged

I [REDACTED], even though the school failed to complete a legally required manifestation determination review to determine if the behavior was a manifestation of [REDACTED] his disability.

recommendation for expulsion and multiple school-initiated arrests yet he was never provided

with the behavioral supports and services needed for him to receive educational benefit. See

CONFIDENTIAL - See Army reg. 474. She has been identified as a student eligible for

R [REDACTED] April 2010 evaluation identifies her numerous educational needs. But her

May 18, 2010 IEP fails to address any of these needs. See Annex, pp. 506-509. For example

describes E [redacted] as functioning on approximately the fourth grade level in English Language Arts

Achievement Test (WRAT). See Appx. pgs. 5, 6.

See Appx. pgs. 68-71. Instead of following an intervention protocol developed as part of E■■'s behavior plan, the special education teacher and the school security officer entered E■■'s classroom, confronted E■■ in front of the other students, and demanded that he leave with the security officer. See Appx. pgs. 68-71. Despite a recent IEP meeting during which school staff

acknowledged the student's disability, E■■

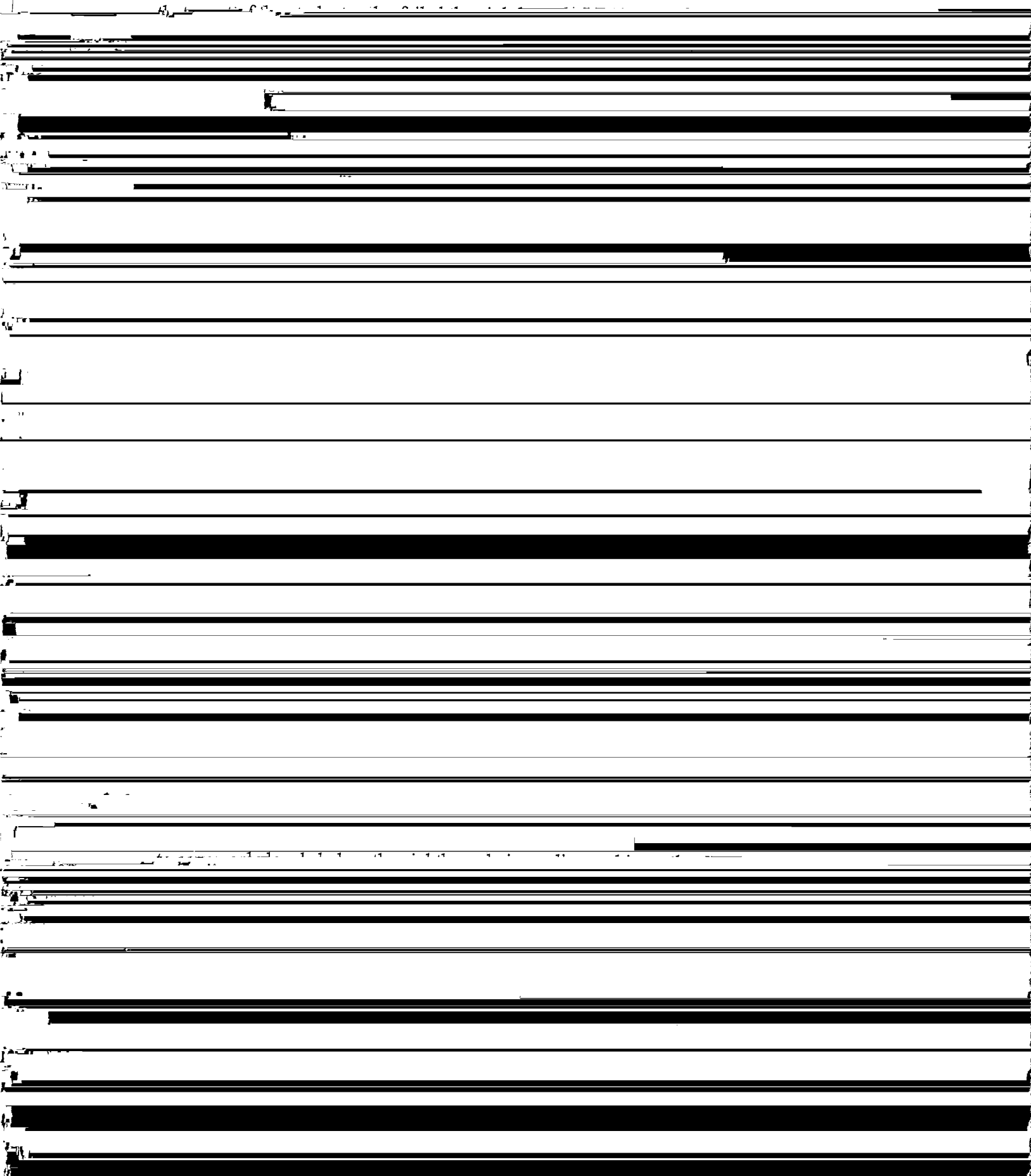
[REDACTED]

E [REDACTED] has also been denied appropriate transition services. IDEA and its accompanying regulations require that students with disabilities 16 years of age or older be given transition

A survey conducted by Educational Support Systems, Inc. ("ESS Survey") further documents systemic child find violations in New Orleans public schools.²² The survey evaluated the special education programs and services of 23 charter schools in New Orleans and issued

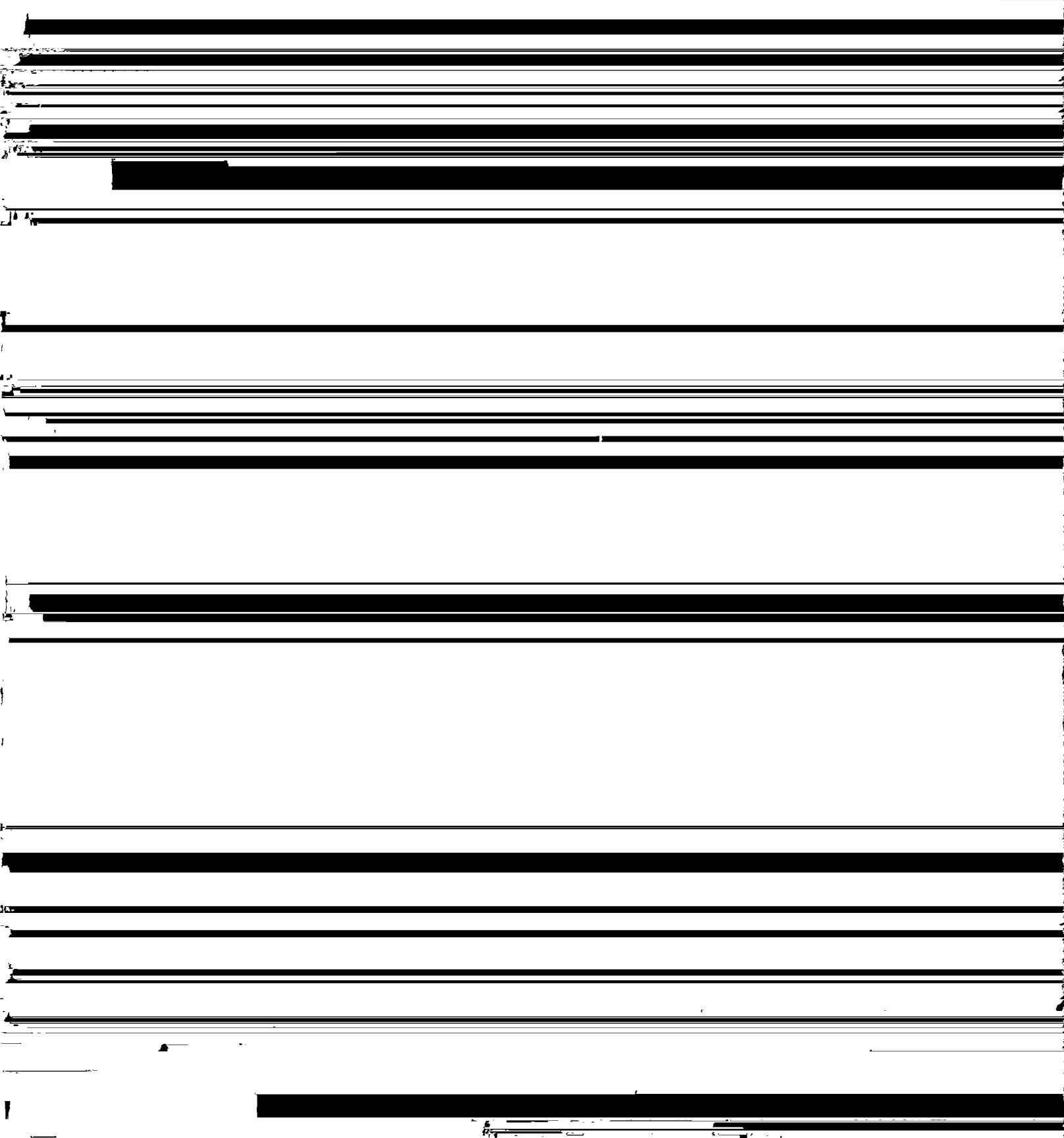
Orleans students are receiving educational benefit. The elementary, low high school graduation

charter school students with disabilities failed the test. *See* Appx. pg. 907. LDE has documented



sporadic attendance at IEP meetings and no communication with the teachers to ensure that

The systemic nature of this failure by LDE is documented in the ESS Survey which found



handicapped students. Children with disabilities are significantly underrepresented in many

public schools in New Orleans, particularly charter schools. The average percentage of students

The Board of Elementary and Secondary Education (BESE) continues to allow charter schools that fail to enroll children with disabilities to operate without increased oversight relating

Candau's policy enrollment rate for students with disabilities and recommended that Candau be

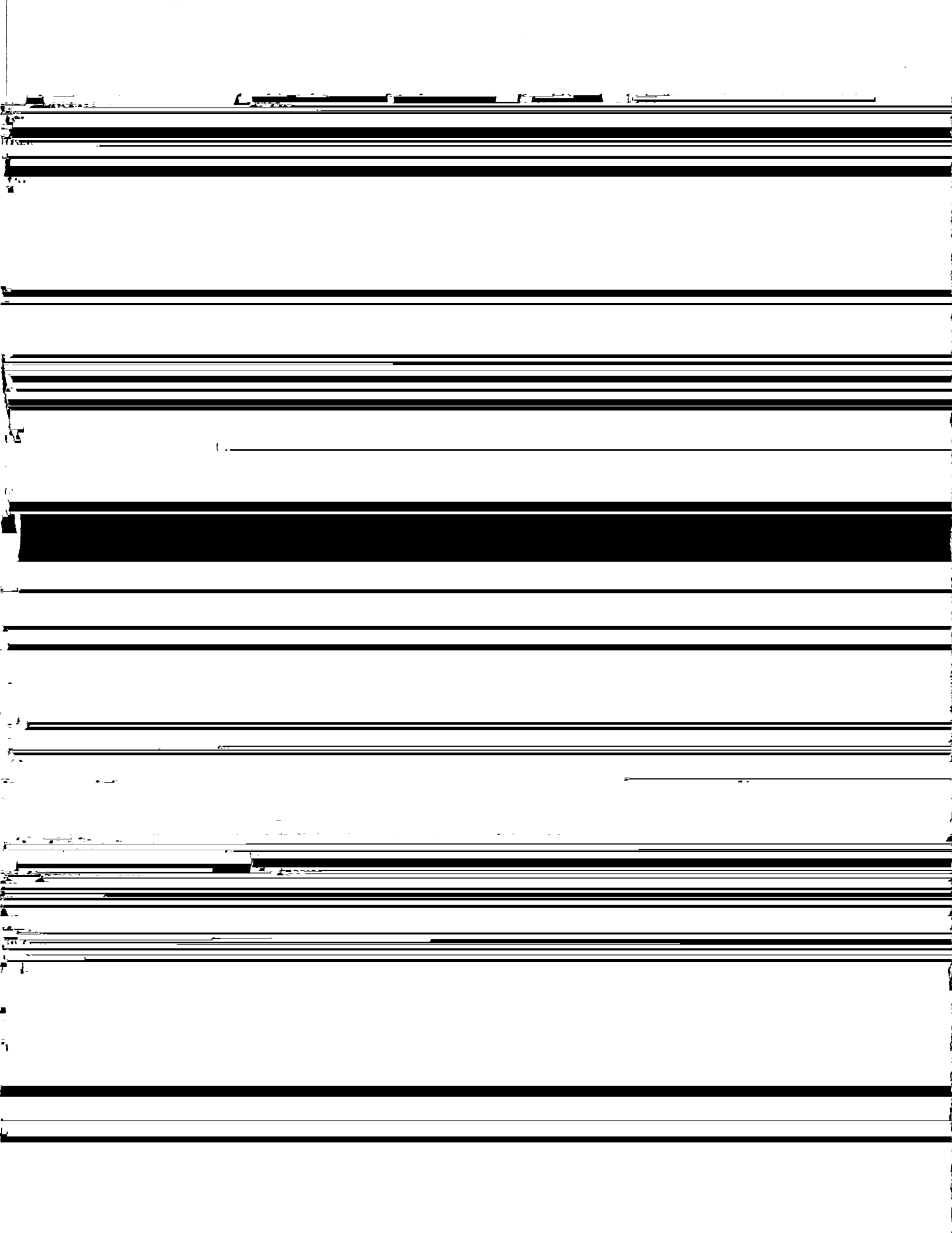
(behavioral) progress because of LDE's failures. See 20 U.S.C. § 1412(a)(11)(A); *Rowley*, 458 U.S. at 188-89.

nondisabled children in violation of Section 504 of the Rehabilitation Act of 1973 and the IDEA.

34 C.F.R. § 300.109; 34 C.F.R. § 300.110.

V. REMEDIES REQUESTED TO SETTLE THIS CLASS COMPLAINT

[REDACTED]



11) Compel LDE, in conjunction with the Special Master and the interested parties, to

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