**Hypothetical**

Tanner is a 16 year old student, currently in the 10th grade, attending a Special Day Class program at Perfect School District, for 51% of his school day. He is eligible for special education under the primary category of Emotional Disturbance. His current IEP includes 4 goals in the areas of reading, writing, coping strategies, and anger management, and offers 30 minutes per week of counseling support by the school psychologist, to address his goal for coping strategies.

As a 9th grader, Tanner was enrolled in general education classes, and participated in specialized academic instruction (“SAI”) for 55 minutes per day. During the 9th grade school year, his IEP included 3 goals in the areas of reading, writing and coping strategies. In addition to SAI, Tanner also received 30 minutes, twice per month, of counseling support by the school psychologist, to address his goal for coping strategies. At the end of the 9th grad school year, Tanner had a B average. Progress reports noted he met 2 out of 3 goals, and made “some” progress on the goal related to coping strategies

Over the summer before 10th grade, Tanner got arrested for vandalism. He ran away from home at least 6 times, and his parents called law enforcement to the home due to verbal and physical altercations with Tanner on 2 occasions. Between September and December of his 10th grade year, Tanner earned C’s and D’s in all of his classes, had 15 full-day absences, and was hospitalized by his parents, who kept him on a psychiatric hold. Prior to the hospitalization, Tanner was suspended for marijuana possession and use at school two times, earning five days of suspension for each offense.

An IEP meeting is being convened in January (of the 10th grade school year), due to parent request to discuss concerns. Parents are concerned about Tanner’s behavior at home, and his dropping grades and increase in discipline issues. At the IEP meeting to discuss these concerns, the IEP team also discusses that Tanner has his head down on his desk most of his classes, for a good portion of the class day. He has also been making sexually inappropriate remarks to female students, and has refused to complete any work in his History and math classes. School staff discuss that a change in placement is necessary in order for Tanner to make appropriate educational progress. School staff propose placing Tanner at a nonpublic school that:

* Has a behavioral management program embedded into each class
* Includes small group and individual counseling on a weekly basis
* Includes family counseling and social work support, twice per month

Parents state their disagreement with this proposed educational program. They are requesting a residential placement for Tanner.

Perfect School District last assessed Tanner at the start of his 9th grade school year. At that time, the district conducted assessments in the following areas:

* Intellectual ability
* Academics
* Social/emotional

One month after the January IEP meeting, parents remove Tanner from Perfect School District and file a due process complaint. The complaint alleges:

1. District failed to offer or provide FAPE during the 9th grade school year.
2. District failed to offer or provide FAPE during the 10th grade school year.
3. District failed in its child find obligations, for failing to assess Tanner in the area of Behavior.

The complaint asks the judge to order the district to fund the costs associated with the residential placement.