
Lesa and David Ferguson

7th February 2023

Stakeholders at EVCS Days Park

40 Days Park
Buffalo, NY 14201

Dear Elmwood Village Charter School Stakeholders,

We are writing to share our experience with Elmwood Village Charter School Days Park (EVCS) and to raise concerns about the unfair treatment of children with special needs at this school. My two sons, Sam and Cal, attended EVCS from September 2011 to June 2022. Despite having an IEP in place, Cal was not receiving the necessary accommodations and was punished for behaviors associated with ADHD. I withdrew Cal from in-person classes only to discover EVCS had failed to teach him to read and write.

As a result, we retained counsel and filed a Free Appropriate Public Education (FAPE) Complaint against the Buffalo Public School District and EVCS. We eventually received a placement that we desired as a settlement instead of proceeding to a hearing. Our story highlights the difficulties faced by students with ADHD, special education needs, and reading challenges. It is our hope that by sharing our experience, we can raise awareness and prevent similar situations from happening to other students.

In addition, our experience at EVCS highlights a broader issue of privilege and complacency within this school's system. Its reputation is safeguarded by not disclosing certain incidents, perpetuating a cycle of silence and complicity that benefits privileged students at the expense of others. This is unacceptable, and it is crucial that these systemic issues are addressed to establish a just and inclusive education system for all EVCS students.

I urge you to review the information presented here and take necessary steps to ensure that all students, regardless of their background, receive the education and support they need and deserve. Thank you for your time and consideration.

Privilege

Sam (our white, biological son) graduated from EVCS in 2020 and is now studying at Canisius High School. In the spring of 2022, when Cal (our black/Hispanic adopted son with an ADHD diagnosis) was in 3rd grade, I removed him from his classroom for digital learning. It was later discovered that he was not receiving the special education accommodations outlined in his IEP. He was practically illiterate. As parents, we were heartbroken when we finally realized the extent of what happened at EVCS to Cal. Sam said, “I told you for years this was happening, not just to Cal. You didn’t want to hear it but now you see it for yourself.”

The year before Sam started at EVCS, he was enrolled in what could be called a “redshirting program” at Westminster Early Childhood Program, a private preschool. In his class, seven children who were born in the later part of the year were given one more year of preschool so they would enter kindergarten at five years old. The director of EVCS had enrolled her children at this school. Of the seven children in Sam’s class, five of them enrolled in the lottery for EVCS. In a lottery of hundreds, all five students won a spot. In fact, one of the kids' parents is now the chair of the board. Of course, this statistical anomaly raised my suspicions. I try not to justify my complicity. I accepted the admission with relief and silence.

At the time of Sam’s entrance into kindergarten, we were trying to adopt. When Sam gained admittance into EVCS, we changed our “grid” to include children of color. I believed EVCS with its mission of community and multiculturalism to be a kind of gift to our someday baby. From my vantage point at the time, I was happy Sam would attend a diverse, well regarded, well funded, safe, and highly ranked elementary school which given sibling preference would be the same one for our adoptive child. We adopted Cal in February of Sam’s kindergarten year.

After the arrival of the new principal, the special education resource room was replaced by the Wellness Room. I initially thought this was a place for students to regulate and reflect. In five years, Sam spent all of 10 minutes there, coloring a flower. I later learned that it was also used for disciplining students with suspensions. My son Cal was there almost daily, and his disciplinary record grew.

Sam's record remained pristine despite his starting at least one altercation. This type of non-reporting protects the school's reputation and allows privileged students to attend better, often private high schools, without damaging their records. The school never once contacted me about Sam after the new principal arrived. Recently, he told me about a situation when he was in 7th grade where a girl threatened a teacher with a knife. All students were explicitly instructed not to tell their families about the incident. The reputation of the school was deemed more important than the children or the teachers receiving support from their families after a traumatic event.

I wrote off Sam's concerns and his admission that he was getting treated better than his peers as Sam just being a really great kid. He is a really good kid and so were his classmates, some of whom looked and sometimes acted like his brother. I continued to believe that our years as members of this community would extend the privilege to my black, adopted son with an ADHD diagnosis. As it turns out, trickle-down privilege is no more effective than trickle-down economics.

One of the last incidents that prompted us to remove Cal from EVCS was an in-school suspension followed by a white, female classmate drawing pictures of him in jail and stuffing them into his desk. Cal gave the drawings to his teacher who promptly filed it under, "Nothing to see here." I am positive that this little girl had no idea the alarming historical significance of the school to prison pipeline for black boys. She was simply illustrating what she saw everyday at EVCS that when black boys misbehave, they belong in detention. Cal reported these incidents to the teacher who ignored them even after I repeatedly asked about it.

10-25% of all students have ADHD or ADHD behaviors (American Psychiatric Association, 2022). EVCS worked hard to expel Cal from its rolls (only back-pedaling when lawyers were present), and we know of other families who have faced similar treatment.

I will no longer be complicit and silent about a system that privileges some children over others, that suspends rather than accommodates, that refuses to integrate special education into their curriculum. I hope our honest account of what transpired will motivate you to insist on change.

Special Education at EVCS

The last Committee on Special Education (CSE) meeting for my son took place in March, 2022 and was a challenging experience. I noticed that EVCS and the CSE seemed to be working together to transfer my son from EVCS to an unspecified "smaller classroom" within a Buffalo Public School. Both parties warned me that "jobs were on the line" if I didn't agree to the recommendation. Due to the apparent errors in the reports, I wrote letters of complaint to the CSE regarding the test and the psychologist who conducted the test.

Ultimately, the CSE decided that my son would continue to receive support in a co-teacher environment, including occupational therapy (OT), counseling, and speech therapy at EVCS.

Despite this recommendation, the school continued to call me almost daily. Staff acted strangely and emotionally charged, making vague threats again about their job security if I did not remove my son from EVCS. They told me I needed to place my son at a different school, or else bad things would happen to him (for example, he was becoming a liar).

When I eventually pulled him from the classroom to digital learning, I saw how my son was overwhelmed and undereducated. None of the curriculum had been adjusted to meet his individual needs and I had to read everything to him. After advocating for him with the administration over email, the digital instructor finally made some accommodations to his schoolwork to align with his Individualized Education Program (IEP).

I asked for a meeting to discuss my son's digital learning and requested that our family therapist be present due to the emotional distress I continued to encounter which I was now feeling as well. The principal at the time, Danielle Bruno, informed me that EVCS had retained a lawyer who would be present at the meeting. This raised my suspicion that something potentially illegal was afoot.

I reached out to The Parent Network of Western New York for assistance and was referred to Special Education Quality Assurance (SEQA). The representative listened to my story and informed me that given what I had said, the school was not in compliance with my son's IEP. I was advised to retain a lawyer, which I did. Patrick McNelis was

highly recommended and I would also recommend him if you feel that your child's school is not in compliance with their 504 plan or IEP.

I found it concerning that my son's teachers were novice and inexperienced in teaching children with ADHD, despite teaching in a designated special education co-teacher classroom. I advocated for better strategies in the classroom and reached out to organizations and therapists to provide training materials. In previous years, my son's teachers welcomed additional resources to regulate the classroom for success. However, EVCS no longer employs these qualified special education teachers. According to many teachers and parents, the inexperienced teachers lost control of the classroom and did not provide students with state-mandated special education accommodations. The school lacks a comprehensive special education program and has no extrinsic reward system, resource room with qualified special education teachers, individualized learning, tutoring, or daily physical activities. Without these necessary supports in place, the school relied heavily on suspensions. In EVCS's school policy, they can expel a student after doling out so many days of suspension. There is no other school or plan for these children once EVCS finishes with them.

The National Disability Rights Network reports that many children with disabilities experience these "Transfers to nowhere" where students are involuntarily shut out of one school into a program that does not exist. Neither the CSE or EVCS offered to transfer my son to any specific classroom or school that could accommodate him, effectively pressuring us to have him leave EVCS to some unspecified location in a district littered with failing and under-resourced schools (Tan, 2015). As parents the prospect was dystopian. When I suggested the school he currently attends, I was told by the CSE that under no circumstances could he gain admittance without first going through a series of various, unnamed special education classrooms throughout the Buffalo Public Schools. We hired a lawyer to negotiate for us.

Reading and Writing at EVCS

During the March CSE meeting, I learned that my son couldn't read. While I knew he struggled, the teachers did not provide any testing or reveal the extent of the problem until six months into the school year.

Recently, I listened to the podcast "Sold a Story," which described my son's situation exactly. The journalists criticized the programs used by EVCS, such as The Writers Workshop, leveled reading programs (Raz Kids), and the 3-cueing method of guessing words based on the first letter, context, and pictures (which happened in 2nd grade). These programs are not only ineffective, but also divisive, particularly for struggling readers. Phonics instruction, the only proven method of teaching reading, was limited at EVCS and was further limited by the pandemic. Programs like Raz Kids give the illusion of children reading, but in reality, they are only guessing and memorizing. Following the return to full time instruction, EVCS purchased the phonics-based reading program Really Great Reading.

After I removed my son from the classroom, I requested the use of the Really Great Reading app. I assumed it was set to his individual reading level, but the digital instructor for third grade informed me that no one in the building knew how to individualize it. The app was set to "grade level," which meant that if a student was not yet at that level or had surpassed it, the program was useless to them. My son's special education teacher did not provide individualized phonics instruction using the Really Great Reading program and continued to heavily rely on Raz Kids. This affected his ability in all other subjects. As he was unable to productively participate in class, his behaviors escalated.

I enrolled him into tutoring at Sylvan Learning. Despite repeated failed spelling tests and dismal test scores that she administered, his special education teacher dismissed Sylvan, a proven and highly effective phonics-based tutoring program, as too tech based and not how children read (which is again not backed by science). At Sylvan, after eight months at three hours a week, my son jumped 2.5 grade levels in reading and is on track to achieve his grade level by the end of the year. Because the teachers at Stanley Falk know how to operate and individualize their school's phonics-based reading curriculum, my son is now reading, earning high marks and is currently on their Merit Roll, which only fuels his desire to do more. His teacher informed him yesterday he is ontrack this grading period to be on the Honor Roll.

What a difference a special education program can make in a child's life.

I enrolled my son in Sylvan because several parents at EVCS informed me that the school was not effectively teaching their children to read and they had sought out tutoring. The report "Sold a Story" confirms that reading levels at schools such as EVCS are often determined by a family's wealth rather than the education provided in the school. This raises the questions: What about all the struggling readers inside EVCS whose parents aren't affluent? Are they consigned to illiteracy? How many families at EVCS have sought outside tutoring for their children? How have their reading scores improved compared to students who don't receive individualized tutoring? What is EVCS doing to support struggling readers? Has anyone on the staff learned to use the Really Great Reading app yet?

Suspension at EVCS

In our initial meeting with our lawyer Patrick McNelis, we raised the issue of EVCS's persistent use of suspensions instead of providing the support mandated in his IEP. Along with "Transfers to nowhere," we learned through our research about how schools will "informally remove" children with IEPs from their rolls by employing tactics such as frequent parent pickups, shortened school days or hours spent in "time-out" rooms in this case the Wellness Room. (National Disabilities Rights Network, 2023)

Before I pulled my son from EVCS, the staff member in charge of the "Wellness Room" informed me that she had created a new "behavioral plan" which involved targeting, investigating, gathering information from informants, and eventually suspension. She used policing language when describing the plan, not special education interventions. She informed me that she had visited the classroom and asked the children to inform on my son, insisting that teachers and all special education staff should report directly to her. She effectively turned ADHD behavior into criminal activity by treating it like a crime.

Initially, I was relieved that this beloved figure who had previously served as my older son's teacher's aide in kindergarten and 2nd grade had taken action to regulate my younger son's classroom, but my relief turned to concern when I heard her use of policing language and her insistence that my son should be expelled from EVCS to another school.

She does not hold a teaching degree nor does she have special education certifications or social work degrees, yet she was fully empowered by the administration to implement this type of intervention. Policing invariably leads to incarceration. It's no wonder the white girl in my son's class could so accurately illustrate what happens to students with IEPs inside EVCS.

Under this regime, my son's behaviors began to significantly escalate. His learning had effectively been walled off from him, his special education supports were hit and miss at best, and his teachers had no understanding of how to manage children with ADHD (my son was not the only child in the room with this diagnosis). Detention was their go to. When the school called me to report his so-called "crimes," I no longer recognized him in their telling. He simply didn't act how he was acting at school anywhere else—not at soccer, dog training, chess, Sylvan, with family or friends. He would arrive home from school telling me how kids made fun of him because of his in-school detention. When kids physically bullied him and he reacted, the other kids told on him and he was in trouble.

In September, after my son started at his new school, he told us that his bus passed by EVCS. He said his heart started racing and he tried to keep himself from crying out. He was terrified that he would be dropped off there. He begged us to promise him that he would never have to return there. The trauma he experienced inside that building is still being processed with his therapist.

Earlier in the summer when we met with the district lawyer to settle the case, that lawyer said that EVCS was willing to have our son back, that he could negotiate a return. After all we had endured, I was gobsmacked. What made him think we would ever put our child through that kind of trauma again? Then, I realized this lawyer must have read over my correspondence. I had spent 10 years pouring my trust, loyalty, and advocacy into that school. I took pictures of the kids and faculty and sent them postcards. I sent love letters via social media. I volunteered. I recommended the school to so many families. That lawyer knew from my emails how beloved EVCS had been. Even with all the overwrought phone calls I fielded from the school, I still didn't blame the teachers. I felt betrayed by the school. I was sold on their mission of inclusion, community, diversity, literacy, kindness, responsive classroom, and a growth mindset. The reality is this school is reliant on privilege,

affluence, policing, and reputation over education, especially special education.

The Cost of Attending EVCS

EVCS's failure to fulfill their duty to educate my child has caused immense emotional and financial stress for our family. While my child was in class at EVCS, I was frequently called to pick him up early. I was essentially on standby for their convenience. When we decided to switch to online learning for the sake of my child's mental health, I spent most of my time communicating with the school to get him the special education services he needed. My son returned to us hurt, under-educated, and disheartened. I have been occupied with visits to doctors, lawyers, therapists, tutors and I have been unable to work, not to mention the additional cost of private tutoring. Our family is not alone in this struggle (The Hechinger Report, 2022). Now that my son is safe, I hope to move on from this difficult chapter. This letter is my hope to save other families from this costly and traumatic encounter with EVCS. Since we have left, I have heard from several other families that EVCS continues to mistreat children with IEPs and 504 plans.

Cal is flourishing at his new school. When we requested that he attend this school, the district lawyer told us that Cal doesn't belong with violent and disturbed children and that he should go back to EVCS. His insensitivity and judgemental tone about children in need of services was appalling. This school has a well-regarded program for children with a diagnosis and is staffed by experienced, qualified, and knowledgeable teachers. It also offers mental health services, growth mindset, positive reinforcement, kindness, a great gym, wholesome food, STEAM lab, and music program—many more bells and whistles than EVCS. Why would I be afraid of my child attending an elementary school with well-supervised, well-educated students who have their needs met? I fear broken school systems that promote toxic forms of positivity. I was repeatedly told about the success of EVCS even though they were unwilling to acknowledge their failure to provide basic education in reading and writing, putting all children at risk by selective reporting, denying required special education services, and bullying children with disabilities by formal and informal measures to remove them out the door to nowhere.

Our Best Wishes

Maya Angelou famously said, "Do your best until you know better. Then, do better." EVCS needs to do better. I hope that as a stakeholder, you insist that EVCS does better by teaching all the children in their care to read and write and to provide for the special education needs of their students.

This report is my effort to do better, to speak out, to no longer be complicit in a system that favors one of my sons over the other. Both of them deserved to have the education EVCS promised in their mission.

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