

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No.: 09-cv-00858-WJM-MEH

EBONIE S., a child, by her mother and next friend, MARY S.

Plaintiff,

v.

PUEBLO SCHOOL DISTRICT 60,
MARILYN GOLDEN, Teacher, in her official and individual capacities,
GARY TRUJILLO, Principal, in his official and individual capacities,
MARY JO BOLLINGER, Executive Director of Exceptions Student services,
in her official and individual capacities,
LOUISE RIVAS, paraprofessional, in her official and individual capacities,
SHARON WELLS, paraprofessional, in her official and individual capacities,
ISABEL SANCHEZ, paraprofessional, in her official and individual capacities,
AUDRA MARTINEZ, paraprofessional, in her official and individual capacities, and
KRISTEN POTTER, paraprofessional, in her official and individual capacities,

Defendants.

ORDER FOR SUPPLEMENTAL BRIEFING

This matter is before the Court on Defendants' Motion for Summary Judgment and Memorandum Brief in Support of Motion for Summary Judgment, ECF No. 80, and Defendant Golden's Motion for Summary Judgment and Memorandum Brief in Support of Motion for Summary Judgment, ECF No. 81, (the "Motions for Summary Judgment"). In reviewing the Motions for Summary Judgment, the Court has determined it would benefit from contemporaneous supplemental briefing on the following issues:

- (1) Whether Plaintiff's Fourteenth Amendment Substantive Due Process claim is viable to the extent it arises out of conduct also alleged by Plaintiff to be

in violation of the Fourth Amendment, in light of the Supreme Court's decision in *Graham v. Connor*, 490 U.S. 386 (1989);

- (2) Whether, with regard to Plaintiff's Equal Protection claim, the individuals alleged by Plaintiff to be "similarly situated" to her should properly be construed by the Court to be comprised of students who attend Bessemer Academy and are not disabled, or students who attend this institution and are disabled; and
- (3) Whether, or not, there is evidence in the record in support of Plaintiff's allegations that mechanical restraints, including mechanical restraint chairs, were not used with non-disabled Bessemer Academy students.

It is therefore hereby ORDERED that the parties shall submit, no later than April 27, 2011, a supplemental brief directed to the issues set forth above. These briefs shall not exceed 8 pages in length, exclusive of signature blocks and certificate of service. No response or reply briefs shall be permitted.

Dated this 20th day of April, 2011.

BY THE COURT:



William J. Martinez
United States District Judge