

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

CARISSA CORNELIUS, ET AL.,

Plaintiffs,

v.

MARI EDITH MARTIN, ET AL.,

Defendants.

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Civil Action No. 4:25-CV-00608-O

ORDER

Before the Court are Defendants’ Motions to Dismiss (ECF Nos. 21, 22, 23, 25, 27, 29); Plaintiff’s Responses (ECF Nos. 38, 39, 40, 41, 42, 43); and Defendants’ Replies (ECF Nos. 48, 49, 50, 51, 52). Having reviewed the briefing and relevant caselaw, Defendant Bean’s Motion (ECF Nos. 21, 23) is **GRANTED in PART** and **DENIED in PART**; Defendant Dale’s Motion (ECF No. 27) is **GRANTED**; Defendant MISD’s Motion (ECF No. 29) is **GRANTED**; Defendant Martin’s Motion (ECF No. 25) is **GRANTED**; and Defendant Carter’s Motion (ECF No. 22) is **GRANTED**.

I. BACKGROUND¹

This case is about the alleged physical and emotional abuse of children with special needs at Millsap Independent School District. Plaintiffs Carissa Cornelius as Next of Friend of A. C., a Minor Child, Victoria Garner a/k/a Victoria Garcia, as Next of Friend of T. G., a Minor Child, and Whitney Price as Next of Friend of I. R., a Minor Child (“Plaintiffs”) filed this lawsuit against

¹ Unless otherwise cited, the Court’s recitation of the facts is taken from Plaintiff’s Amended Complaint. See Pl’s Am. Compl., ECF No. 19. At the 12(b)(6) stage, these facts are taken as true and viewed in the light most favorable to Plaintiff. *Sonnier v. State Farm Mut. Auto. Ins.*, 509 F.3d 673, 675 (5th Cir. 2007).

Defendants Mari Edith Martin (the superintendent, “Martin”), Roxie Carter (the principal, “Carter”), Paxton Kendal Bean (an educator, “Bean”), and Jennifer Cain Dale (an educator, “Dale”), and Millsap Independent School District (“MISD”). Plaintiffs A. C., T. G., and I. R. are members of Millsap Elementary’s special education program. A. C. is diagnosed with non-verbal autism, rendering him a special needs case as his educational progress is hampered by his ability to communicate and grasp concepts like a traditional student. T. G. is diagnosed with Angelman syndrome, rendering her with the cognitive ability of an 18-month-old child. I. R. has autism and a speech impairment in the area of pragmatic language.

Millsap Elementary has a separate classroom devoted to children with learning disabilities. This room was run by Dale and her assistant Bean. Other assistants and educators would observe the room from time to time. On February 19, 2025, another assistant was in the classroom with Bean and Dale, and she secretly recorded several abusive acts. Plaintiffs claim at least one video shows Dale and Bean abusing A.C., yelling at him, and threatening him with physical violence. The assistant then became a whistleblower and brought several videos to the attention of superintendent Martin and principal Carter, who said it would be investigated. Bean is principal Carter’s daughter. An administrator was placed in the classroom for the rest of the day to observe. The whistleblower and two other paraprofessionals in the classroom were directed to sign an NDA but were told by Martin that an investigation had begun and that she had immediately reported the abuse to the Texas Education Agency, Child Protective Services, and Parker County Sheriff’s Office. Meanwhile, Martin contacted MISD’s law firm, and an independent investigation began the same day. After school, Bean and Dale were placed on administrative leave and were removed from any classroom interaction with students during the investigation.

Dale resigned on February 21, before the investigation was over. On February 24, parents of children in Dale and Bean's classroom were advised of this "important staffing update." Nine days after the video was shown to Martin, she reported Dale to the Texas Education Agency. Twelve days after the video she reported Bean. For several weeks, none of the parents of the children in the special needs classroom were aware that any abuse had taken place. However, the whistleblower reached out to A.C.'s mother, and on March 4, A.C.'s mother took that information to the police, who immediately opened an investigation into the matter. The police department said they had not been previously contacted with this information.

The police department uncovered emotional and physical abuse dating back to December 2024, and on March 20, 2025, Dale, Bean, and Martin were arrested after the video showing the assault became widely disseminated online. Dale was charged with official oppression, Bean was charged with official oppression and injury to a child, and Martin was charged with failure to report and intent to conceal. The policy investigation also revealed that Martin never filed a report with Child Protective Services.

About a month after the incident was brought to Martin's attention, on March 21, MISD held a widely attended special meeting where they debated whether Martin should be suspended for allegations that she covered the abuse and failed to report it. Ultimately, Martin was terminated. On March 24, MISD approved a third-party investigation to determine whether Carter held substantial involvement in the abuse. On May 9, Carter was allowed to resign from MISD.

On July 17, Defendant Bean was indicted by a Parker County grand jury on charges of felony injury to a child. Defendants Martin and Dale were indicted on misdemeanor charges. In addition, the grand jury also returned misdemeanor indictments for three others Millsap ISD employees for failure to report.

Plaintiffs bring claims for: failure to train and failure to supervise in violation of the Fourteenth Amendment pursuant to 42 U.S.C. § 1983 against MISD, and Martin and Carter in their individual capacities; right to bodily integrity in violation of the Fourteenth Amendment pursuant to § 1983 against MISD, and Bean and Dale in their individual capacities; violation of Title II of the Americans with Disabilities Act (“ADA”) against MISD and Bean and Dale in their official capacities; violation of Section 504 of the Rehabilitation Act against MISD; and lastly, assault, battery, and negligent discipline against Bean and Dale. All defendants filed Motions to Dismiss which are now ripe for the Court’s review.

II. LEGAL STANDARDS

A. Rule 12(b)(1)

Federal courts are courts of limited jurisdiction and must have “statutory or constitutional power to adjudicate the case.” *Home Builders Ass’n of Miss. v. City of Madison*, 143 F.3d 1006, 1010 (5th Cir. 1998). “[W]hen standing is challenged on the basis of the pleadings, [courts] must ‘accept as true all material allegations of the complaint and . . . construe the complaint in favor of the complaining party.’” *Ass’n of Am. Physicians & Surgeons, Inc. v. Tex. Med. Bd.*, 627 F.3d 547, 550 (5th Cir. 2010) (quoting *Pennell v. City of San Jose*, 485 U.S. 1, 7 (1988)) (first alteration and omission in original). A Rule 12(b)(1) motion is proper when the court lacks subject matter jurisdiction, including for lack of standing. FED. R. CIV. P. 12(b)(1). To survive at the pleadings stage, a plaintiff must “allege a plausible set of facts establishing jurisdiction.” *Burnett Specialists v. Cowen*, 140 F.4th 686, 693 (5th Cir. 2025) (citation omitted).

B. Rule 12(b)(6)

Under Rule 12(b)(6), a court may dismiss a complaint for “failure to state a claim upon which relief can be granted.” FED. R. CIV. P. 12(b)(6). To survive a Rule 12(b)(6) motion to

dismiss, a complaint must provide “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The Supreme Court has instructed that plausibility means “more than a sheer possibility,” but not necessarily a probability. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

When assessing a motion to dismiss under Rule 12(b)(6), the facts pleaded are entitled to a presumption of truth, but legal conclusions that lack factual support are not entitled to the same presumption. *Id.* To determine whether the plaintiff has pleaded enough to “nudge[] [his] claims . . . ‘across the line from conceivable to plausible,’” a court draws on its own common sense and judicial experience. *Id.* at 679–80, (second alteration in original) (quoting *Twombly*, 550 U.S. at 570). This threshold is surpassed when a “plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* at 678. When, as here, a defendant asserts a qualified immunity defense in a motion to dismiss, the Court has an “obligation . . . to carefully scrutinize [the complaint] before subjecting public officials to the burdens of broad-reaching discovery.” *Jacquez v. Procunier*, 801 F.2d 789, 791 (5th Cir. 1986).

III. ANALYSIS

The various Defendants move to dismiss Plaintiffs claims on different grounds. The Court addresses each in turn.

A. The Claims of Assault, Battery, and Negligent Discipline Against Bean and Dale are Dismissed Pursuant to Texas Tort Claims Act.

Bean and Dale move to dismiss Plaintiffs’ common law claims of assault, battery, and negligent discipline for lack of subject matter jurisdiction through Federal Rule of Civil Procedure 12(b)(1).² Bean and Dale argue that subsection (f) of the election-of-remedies provision of the

² Bean’s Br. Supp. Mot. Dismiss 4, ECF No. 24; Dale’s Br. Supp. Mot. Dismiss 5, ECF No. 27.

Texas Tort Claims Act (“TTCA”) applies and requires the Court to dismiss the common law claims against them. TEX. CIV. PRAC. & REM. CODE § 101.106(f). Section 101.106(f) applies when the governmental employee is sued in an “official capacity.” *Id.* Under Section 101.106(f) only governmental units—not individual employees—can be sued for an employee’s work-related tortious conduct. “Official capacity” is a defined term and is met when the suit (1) is “based on conduct within the general scope of that employee’s employment” and (2) “could have been brought under [the Act] against the governmental unit.” *Id.*

Plaintiffs make two defective arguments as to why the election of remedies provision does not apply. First, Plaintiffs argue that the election-of-remedies provision only applies when the same claim is brought against both the governmental entity and the individual, and here there are no common law tort claims against MISD.³ This argument fails. As Bean and Dale point out, the only cases Plaintiffs cite fail to support this argument because they deal with the wrong statutory provision.

Plaintiffs cite *Trice* and *Green* in support, but these cases analyze a different section of the TTCA, not the Section 101.106(f), which Bean and Dale invoke. The section Plaintiffs appeal to applies when the suit is against both a governmental unit and an employee.⁴ *See Trice v. Pearland Indep. Sch. Dist.*, 2020 WL 1557750, at *12 (S.D. Tex. Mar. 6, 2020) (analyzing a claim that § 101.106(e) applies); *see also Green v. Nueces Cty.*, Civil Action No. C-09-316, 2010 WL 918972, at *5 (S.D. Tex. Mar. 15, 2020) (same). But Bean and Dale invoke a broader provision, found just one paragraph beneath, which does not require the same claim to be brought against MISD. In interpreting the section Bean and Dale invoke, the Texas Supreme Court held “[t]here is no reason why an employee should be entitled to dismissal if sued with the government but not if sued alone.”

³ Pl.’s Resp. to Bean’s MTD 6, ECF No. 41.

⁴ *Id.* at 6–7.

Franka v. Velasquez, 332 S.2d 367, 380 (Tex. 2011) (applying § 101.106(f)). Because Plaintiffs’ authority interprets an inapplicable provision *Trice* and *Green* do not control.

Next, Plaintiffs argue that the second element of “official capacity”—*i.e.*, the suit “could have been brought under [the Act] against the governmental unit”—is not met because Plaintiff could not have sued MISD for these common law torts.⁵ See TEX. CIV. PRAC. & REM. CODE § 101.106(f). Basically, because immunity is not waived for intentional torts against schools under the TTCA, Plaintiffs contend that the suit could not have possibly been brought against the school.⁶ See TEX. CIV. PRAC. & REM. CODE § 101.057(2); see TEX. CIV. PRAC. & REM. CODE § 101.051. Plaintiff claims *Meroney* supports this reading. *Meroney* held that for purposes of § 101.106(f), a claim could not have been “brought under [the Act]” when immunity is not waived for that claim. *Meroney v. City of Colleyville*, 200 S.W.3d 707, 714 (2006). But Bean and Dale rightly argue that this is outdated law. *Meroney* “is not binding precedent” after the Texas Supreme Court overruled *Meroney* with its decision in *Mission Consol. Indep. Sch. Dist. v. Garcia*, 253 S.W.3d 653, 656–60 (Tex. 2008). See *Texas Bay Cherry Hill, L.P. v. City of Fort Worth*, 257 S.W.3d 379, 400 n.9 (Tex. 2008) (explaining that *Mission* overruled *Meroney*). Moreover, the Texas Supreme Court’s opinion in *Franka* expressly holds that “for section 101.106(f), suit ‘could have been brought’ under the Act against the government regardless of whether the Act waives immunity from suit.” See *Franka*, 332 S.W.3d at 385. In other words, Plaintiffs’ recitation of the law in relation to § 101.106(f) is wrong.

Thus, the election-of-remedies provision of the TTCA applies and requires this Court to dismiss the claims against Bean and Dale. Accordingly, the claims of assault, battery, and negligent against Bean and Dale are **DISMISSED**.

⁵ *Id.* at 6.

⁶ *Id.*

B. The ADA claims against Bean and Dale are Dismissed Because They are Redundant.

Bean and Dale move to dismiss Plaintiffs' claim that they, in addition to MISD, violated Title II of the Americans with Disabilities Act ("ADA").⁷ 42 U.S.C. § 12132. Bean and Dale reason that "Title II of the ADA applies only to public entities" and "individual state employees are not considered public entities."⁸ Bean and Dale also argue that because this is an official capacity suit, it should "be treated as a suit against the entity itself" and thus, should be dismissed as "redundant" for practically suing the school district twice.⁹

First, in their briefing Bean and Dale improperly classify themselves as state employees. They are not; they are local government employees. So, the cases Bean and Dale cite which bar state officials in their official capacity from damages suits come from an inapplicable, distinct line of cases.¹⁰

Second, Plaintiffs respond that "courts in the Fifth Circuit have recognized that school officials can be sued in their official capacity as school employees under the ADA."¹¹ But the two cases Plaintiffs cite do not involve duplicate claims for the same harm against both the school district and a school official in their official capacity, nor do they address that issue. *See Hyde v. Oliver*, Civil Action No. DR-23-CV-31, 2024 WL 6049958, at *4 (W.D. Tex. Feb. 22, 2024) (merely stating that the superintendent was sued in his official capacity); *see also D.A. v. Houston Indep. Sch. Dist.*, 716 F.Supp.2d 603, 611 (S.D. Tex. 2009) (merely stating the principal and counselor were sued in their official capacities). And regardless, the Court agrees with Bean and Dale that the claims are redundant. In suing a municipality (MISD) and local officials in their

⁷ Pl.'s Am. Compl. 34, ECF No. 19.

⁸ Bean's Br. Supp. Mot. Dismiss 18, ECF No. 24; Dale's Br. Supp. Mot. Dismiss 5, ECF No. 27.

⁹ Bean's Reply 7, ECF No. 50.

¹⁰ *Id.* (citing *Kentucky v. Graham*, 473 U.S. 159, 169 (1985) which cites the *Edelman v. Jordan*, 415 U.S. 651 (1974) line of cases).

¹¹ Pl.'s Resp. to Bean's MTD 19, ECF No. 41; Pl.'s Resp. to Dale's MTD 18, ECF No. 43.

official capacity (Bean and Dale) for damages, MISD “could potentially be held liable twice for the same acts.” *Shabazz v. Tex. Youth Comm’n*, 300 F. Supp. 2d 467, 474 (N.D. Tex. 2003) (Lynn, J.) (“The Fifth Circuit’s rationale for prohibiting concurrent suits under Title VII against an employer and the employer’s agent in her official capacity is equally applicable under the ADA. By allowing Plaintiff to sue TYC and Robinson, Helm, and Grace in their official capacities, TYC could potentially be held liable twice for the same acts.”). Therefore, the ADA claims are **DISMISSED** against Bean and Dale as redundant.

C. Qualified Immunity is Granted in Part for Bean and in Full for Dale.

Plaintiffs bring a claim against Bean and Dale for violation of bodily integrity under the Fourteenth Amendment pursuant to 42 U.S.C. § 1983, to which Bean and Dale assert qualified immunity.¹² Once a defendant asserts qualified immunity, the plaintiff bears the burden of demonstrating it is inapplicable. *Ramirez v. Guadarrama*, 3 F.4th 129, 133 (5th Cir. 2021) (internal quotation and citation omitted). “The qualified immunity analysis has two components: (1) whether a plaintiff alleges or shows¹³ the violation of a federal constitutional or statutory right; and (2) whether the right in question was clearly established at the time of the alleged violation.” *Ramirez*, 3 F.4th at 133 (citing *Pearson v. Callahan*, 555 U.S. 223, 232 (2009)).

Defendants Bean and Dale do not move regarding the second element; they ask the Court to find that Plaintiff cannot meet the first element because their actions were corporal punishment, which does not violate the Due Process clause.¹⁴ At a high level, the Fifth Circuit “recognize[s] a student’s liberty interest in maintaining bodily integrity.”¹⁵ See *Moore v. Willis Indep. Sch. Dist.*,

¹² See Bean’s Br. Supp. Mot. Dismiss 14, ECF No. 24; Dale’s Br. Supp. Mot. Dismiss 9, ECF No. 27.

¹³ “The relevant standards differ depending on whether the issue is raised in a motion to dismiss or motion for summary judgment.” *Ramirez*, 3 F.4th at 133 n.1.

¹⁴ See Bean’s Br. Supp. Mot. Dismiss 16, ECF No. 24; Dale’s Br. Supp. Mot. Dismiss 11, ECF No. 27.

¹⁵ *Id.*

233 F.3d 871, 875 (5th Cir. 2000). And the Fifth Circuit has held that corporal punishment violates this interest. *See T.O. v. Fort Bend Indep. Sch. Dist.*, 2 F.4th 407, 414 (5th Cir. 2012) (“[C]orporal punishment in public schools is a deprivation of substantive due process when it is arbitrary, capricious, or wholly unrelated to the legitimate state goal of maintaining an atmosphere conducive to learning.” (cleaned up)). However, the Fifth Circuit has also held that corporal punishment claims are not actionable in Texas because “the forum state affords adequate post-punishment civil or criminal remedies.” *Id.*; *see also Fee v. Herndon*, 900 F.2d 804, 808 (5th Cir. 1990) (introducing this rule).

But a plaintiff has a way out of this restriction if they can allege that an action is not corporal punishment at all. An action is not corporal punishment when it is not disciplinary and is unprovoked. *See T.O.*, 2 F.4th 407 at 414 (drawing a distinction between corporal punishment and actions that are “unrelated to any legitimate state goal”). Plaintiffs make that argument; they claim that Bean and Dale’s actions were merely arbitrary and capricious abuse, devoid of any legitimate state goal of maintaining an atmosphere conducive to learning.¹⁶

For example, a claim was dismissed as disciplinary punishment “when an aide grabbed, shoved, and kicked a disabled student for sliding a compact disc across a table[,]” *id.* (citing *Marquez v. Garnett*, 567 F. App’x 214, 218 (5th Cir. 2014), and “when a student was instructed to perform excessive physical exercise as a punishment for talking to a friend[.]” 2 F.4th at 414 (citing *Moore*, 233 F.3d at 875). On the other hand, claims were not “disciplinary”—and thus, were allowed—when “a teacher allegedly molested a student,” and in another case “when a teacher tied a student to a chair for two days as part of an experimental technique.” *T.O.*, 2 F.4th 407 at 414. Based on these cases, no matter how unwarranted the discipline may be, the question for the Court

¹⁶ Pl.’s Resp. to Bean’s MTD 15, ECF No. 41; Pl.’s Resp. to Dale’s MTD 14, ECF No. 43.

is whether the fourteen alleged incidents against A.C., I.R., and T.G. were disciplinary or unprovoked. *See J.W. v. Paley*, 81 F.4th 440, 453 (5th Cir. 2023) (“We’ve explained: ‘At bottom, fairly characterizing an act as corporal punishment depends on whether the school official intended to discipline the student for the purpose of maintaining order and respect or to cause harm to the student for no legitimate pedagogical purpose.’” (citing *Flores v. School Bd. DeSoto Par.*, 116 F. App’x 504, 510–11 (5th Cir. 2004))).

1. Bean is Entitled to Qualified Immunity with Respect to T.G., But Not I.R. and A.C.

T.G.’s claims against Bean are: (1) T.G. was “among the victims who were under [Millsap ISD’s] care” and (2) Defendant Dale—not Bean—called T.G. a “bitch.”¹⁷ First, simply being “among the victims” is not sufficient to establish a violation of T.G.’s constitutional rights. Second, the profane language allegation does not relate to Bean. And calling T.G. a “bitch” is not a violation of the “right to bodily integrity” as excessive bodily punishment.¹⁸ *See J.W.*, 81 F.4th at 452–53 (“The Supreme Court has defined ‘corporal punishment’ as the use of reasonable but not excessive force to discipline a child that a teacher or administrator reasonably believes to be necessary for (the child’s) proper control, training, or education.” (internal citations and quotation marks omitted))).

I.R.’s claims against Bean are she: (1) subjected I.R. to extensive “timeouts” that ranged from 15–40 minutes in length; (2) pulled I.R. by the ear; (3) punched I.R. in the “calm down” room; and (4) I.R. was “among the victims who were under [MISD’s] care.”¹⁹ Two of these

¹⁷ Pl.’s Am. Compl. ¶¶34, 35, ECF No. 19.

¹⁸ *Id.* at ¶ 92 (Count III, Right to Bodily Integrity in Violation of the Fourteenth Amendment against Bean and Dale).

¹⁹ *Id.* at ¶¶ 34, 35.

standout out as non-disciplinary: when Bean pulled I.R. by the ear,²⁰ and when Bean punched I.R. in the calm down room. Unlike a “timeout,” no facts anywhere in the complaint indicate that these two instances were disciplinary. For the Court to conclude that these incidents were in the context of a pedagogical, disciplinary setting, the Court would have to infer facts not in Plaintiffs’ complaint and draw inferences against Plaintiff. That is improper at this stage.²¹

The remaining claims are A.C.’s, and “the majority of the allegations Plaintiffs assert[] relate[] to [Bean’s] alleged treatment of A.C.”²² A.C. claims that Bean: (1) made inappropriate comments about A.C.’s “wiener”; (2) rushed A.C. out the door at the end of the day, laughing at him because he was confused; (3) engaged in repeated verbal abuse against unidentified children; (4) taunted and mocked A.C.; (5) subjected A.C. to “timeouts” ranging from 15–40 minutes; (6) locked A.C. out of the classroom twice; (7) hit A.C. with a toy spoon and scolded him for chewing on toys; (8) and struck A.C.²³ Claims one through seven either do not constitute excessive bodily punishment or were disciplinary. Bean argues that the eighth claim fails because “Plaintiffs provide the Court with no context regarding the allegation that Ms. Bean struck A.C.”²⁴ But neither has Bean. Even though Bean has no burden here, she does not put forth nor request further facts to dispel the Court’s inference in favor of Plaintiff.

First, Bean could have offered any exhibits to contradict Plaintiffs’ complaint but does not. Second, nothing in the context of the complaint allows the Court to accept Bean’s proffered inference that it was not a “random, malicious, and unprovoked attack.” *T.O.*, 2 F.4th 407 at 415.

²⁰ While it seems dubious that pulling a child by the ear violates the Constitution, Bean does not move on this ground or make this argument. Therefore, because the issue is not properly briefed, the Court declines to address it at this time.

²¹ At the 12(b)(6) stage, these facts are taken as true and viewed in the light most favorable to Plaintiff. *Sonnier*, 509 F.3d at 675.

²² Bean’s Resp. 6, ECF No. 50.

²³ Pl.’s Am. Compl. ¶ 35, ECF No. 19.

²⁴ Bean’s Resp. 7, ECF No. 50.

Although greater detail could assist the Court, Bean also did not move for an order requiring Plaintiffs to reply to the defense in greater detail under Rule 7(a). *See Schulte v. Wood*, 47 F.3d 1427, 1430 (5th Cir. 1995) (en banc). Absent other information, the Court concludes at this stage that it was not corporal punishment when Bean struck A.C. because the allegations indicate it was not a response to anything.

The only remaining question is whether Plaintiff has met the second element—the illegality of the conduct must be clearly established at the time it took place. Even though Bean does not challenge it,²⁵ the Court finds Plaintiff has met its burden. “It is certainly true that ‘by now, every school teacher must know that inflicting pain on a student violates that student’s right to bodily integrity.’” *T.O.*, 2 F.4th 407 at 416 (citing *Moore*, 233 F.3d at 875). “A young student who is not being properly punished or disciplined has a constitutional right not to be” punched, struck, or pulled by the ear. *Jefferson v. Ysleta Indep. Sch. Dist.*, 817 F.2d 303, 305 (5th Cir. 1987) (finding that tying a second-grade student to a chair for an entire school day and substantial portion of the second day with no justification was a clearly established constitutional violation).

In conclusion, Bean is not entitled to qualified immunity for the claim that 1) she pulled I.R. by the ear, 2) punched I.R. in the “calm down” room, and 3) struck A.C. Except for these three claims against Bean, all other 42 U.S.C § 1983 claims against her are **DISMISSED**.

2. Dale is Entitled to Qualified Immunity with Respect to T.G., I.R., and A.C.

T.G.’s claims against Dale are: (1) T.G. was “among the victims who were under [MISD’s] care” and (2) Dale called T.G. a “bitch.”²⁶ These claims against Dale fail to establish a constitutional violation for the same reasons they fail against Bean.

²⁵ See Bean’s Br. Supp. Mot. Dismiss 10, ECF No. 24.

²⁶ Pl.’s Am. Compl. ¶¶ 34–35, ECF No. 19.

I.R. claims that Dale: (1) subjected I.R. to extensive “timeouts” ranging from 15–40 minutes in length, and (2) I.R. was “among the victims who were under [Millsap ISD’s] care.”²⁷ These incidents do not plead excessive bodily punishment, or in the instance of the timeouts, were disciplinary.

A.C. claims that Dale: (1) subjected A.C. to extensive “timeouts” that ranged from 15–40 minutes in length, (2) made inappropriate comments referencing A.C.’s “wiener,” (3) repeatedly taunted A.C., which caused him to cover his ears and rock back and forth, (4) forcefully swung her hand near A.C.’s head, and A.C. flinched and Dale lost her balance, and (5) A.C. was “among the victims who were under [Millsap ISD’s] care.”²⁸ Once again, these claims are either not excessive bodily punishment—*e.g.*, name calling and taunting or swinging and missing—or were disciplinary—*e.g.*, timeouts.

Because T.G., I.R., and A.C. fail to plead the first element of overcoming qualified immunity—violation of a federal constitutional or statutory right—Defendant Dale is entitled to qualified immunity and the 42 U.S.C § 1983 claims against her are **DISMISSED**.

D. The Failure to Train, Failure to Supervise, and Right to Bodily Integrity Claims Against MISD Fail.

Plaintiffs bring three 42 U.S.C. § 1983 claims against MISD: (1) failure to train violation of the Fourteenth Amendment, (2) failure to supervise violation of the Fourteenth Amendment, and (3) a right to bodily integrity violation of the Fourteenth Amendment. For all claims, Plaintiff properly alleges that MISD’s Board of Trustees is the policymaker. *See* TEX. EDUC. CODE ANN. § 11.151(b) (final policymaking authority in an independent school district rests with the district’s board of trustees).

²⁷ *Id.*

²⁸ *Id.*

Plaintiffs do not respond to MISD's request to dismiss the right to bodily integrity claim. Therefore, the Court considers Plaintiffs claim abandoned. *Arias v. Wells Fargo Bank, N.A.*, 2019 WL 2770160, at *2 (N.D. Tex. July 2, 2019) (Lindsay, J.) (citing *Black v. N. Panola Sch. Dist.*, 461 F.3d 584, 588 n.1 (5th Cir. 2006) (“[W]hen a plaintiff fails to defend a claim in response to a motion to dismiss . . . the claim is deemed abandoned.”)).

1. Failure to Train

“To succeed on a *Monell* claim arising from a municipality's failure to adopt an adequate training policy, a plaintiff must demonstrate that: (1) the municipality's training policy procedures were inadequate, (2) the municipality was deliberately indifferent in adopting its training policy, and (3) the inadequate training policy directly caused the constitutional violation.” *Hicks-Fields v. Harris Cnty., Tex.*, 860 F.3d 803, 811 (5th Cir. 2017). A successful failure to train claim also requires the plaintiff to “allege with specificity how a particular training program is defective.” *Zarnow*, 614 F.3d at 170.

Plaintiffs' failure to train claim is two-fold. First, MISD provided no training at all regarding disciplining children, and second, MISD provided no training at all regarding steps to investigate, report, and properly address suspected child abuse.²⁹ MISD also does not contend that it has any policies in place. Rather, MISD's first line of defense is that “[w]ithout an alleged policy or custom, municipal liability claims necessarily fail.”³⁰ But Plaintiffs allegation is based on no training whatsoever, which is actionable. *Littell v. Houston Indep. Sch. Dist.*, 894 F.3d 616, 624 (5th Cir. 2018) (“[T]he ‘official municipal policy’ on which Plaintiffs attempt to hang *Monell* liability is the school district's alleged policy of providing *no training whatsoever* regarding its

²⁹ *Id.* at ¶¶ 60, 62.

³⁰ MISD's Reply 5, ECF No. 48 (citing *E.G. v. Bond*, No. 1:16-cv-68-BL, 2016 WL 8672774, at *12 (N.D. Tex. Sep. 9, 2016) *report and recommendation adopted* 2017 WL 129019 (N.D. Tex. Jan. 13, 2017)).

employees’ legal duties not to conduct unreasonable searches. In other words . . . this is a ‘failure to train’ case.” (emphasis in original)). Therefore, Plaintiffs meet the first element.

MISD also moves on the ground that Plaintiffs have failed to meet the single-incident exception for deliberate indifference.³¹ See *Hutcheson v. Dallas Cnty.*, 994 F.3d 447, 482 (5th Cir. 2021) (“[W]here a plaintiff does not allege [] a pattern, it is still possible to establish deliberate indifference through the single-incident exception.”). To meet this exception, “the municipality must have failed to train its employees concerning a clear constitutional duty implicated in recurrent situations that a particular employee is certain to face.” *Id.* (internal citation and quotation marks omitted); see also *Burge v. St. Tammany Par.*, 336 F.3d 363, 373 (5th Cir. 2003) (“[I]t should have been apparent to the policymaker that a constitutional violation was the highly predictable consequence of a particular policy or failure to train.”). “Without a pattern of constitutional violations, deliberate indifference can be inferred only in narrow and extreme circumstances like those of *Canton*’s hypothetical. And in the thirty years since *Canton* issued, *actual* cases reaching those extremes have proved fortunately rare.” *Littell*, 894 F.3d at 627 (finding only one published case in the Fifth Circuit) (citing *City of Canton v. Harris*, 489 U.S. 378 (1989)) (emphasis in original).

The only reference to the single incident exception in Plaintiffs pleadings is that it was obvious Bean and Dale “would be placed in situations requiring disciplining children, behavior management, and working with children with special needs.”³² MISD responds that to meet the obviousness requirement, the Court would need to and should not “presume that children with special needs are inherently a discipline problem, and that educators assigned to supervise children

³¹ MISD’s Reply 5, ECF No. 48.

³² Pl.’s Am. Compl. ¶ 66, ECF No. 19.

with special needs will inevitably resort to physical abuse unless first instructed through training that physical abuse of children violates the U.S. Constitution.”³³

Defendants are correct. *Cf. Littell*, 894 F.3d at 626 (because all school officials were vested with authority to search students, school district was deliberately indifferent not to provide training based on Fourth Amendment search law). This is not the kind of situation where MISD should be liable for failure to train—it is so obvious that it does not need training to say that a child should not be punched in the face unprovoked. *Cf. id.* (reasoning that the school district cannot rely on its employees to come pre-equipped with complex Fourth Amendment legal knowledge). It is more likely that Bean and Dale’s “shortcomings may have resulted from factors other than a faulty training program.” *Canton*, 489 U.S. at 391–392.

For Plaintiffs lack of reporting policies claim, they do not specify whether it is based on a single-incident or a pattern. Plaintiff only argues that MISD “failed to train its personnel how to properly report physical abuse given the fact that Superintendent Mari Edie Martin and the Principal Roxy Carter failed to make required reports about Bean and Dale assaulting and abusing [Plaintiffs], despite being told by an assistant who witnessed and recorded the conduct.”³⁴ However, as Defendant points out, even Plaintiffs own complaint acknowledges that no one outside of that classroom knew of the abuse until February.³⁵ And within two weeks of hearing about the abuse, Dale and Bean were both reported by Martin,³⁶ and an investigation immediately followed. Plaintiffs’ allegations do not indicate that there was a failure to report. Therefore, the failure to train claims against MISD are **DISMISSED**.

³³ MISD’s Reply 5, ECF No. 48.

³⁴ Pl.’s Am. Compl. ¶ 69, ECF No. 19.

³⁵ *Id.* at ¶¶ 1, 24, 25, 28.

³⁶ *Id.* at ¶¶ 25, 28, 29.

2. Failure to Supervise

Similar to the above failure-to-train analysis, for a plaintiff to succeed against a municipality on a failure-to-supervise claim, the complaint must allege facts that plausibly establish “(1) the supervision policies of the municipality were inadequate, (2) the municipality was deliberately indifferent in adopting such policies, and (3) the inadequate-supervision policies directly caused the plaintiff’s injuries.” *Malone v. City of Fort Worth, Tex.*, 297 F. Supp. 3d 645, 656 (N.D. Tex. 2018); *see Goodman v. Harris Cty.*, 571 F.3d 388, 395 (5th Cir. 2009).

Plaintiffs argue that MISD “did not supervise how its employees, like Bean, Dale, Martin, or Carter, disciplined students, interacted with special needs students, or reported improper conduct with special needs students.”³⁷ While Plaintiffs identify multiple instances where Martin and Carter failed to supervise, they do not identify any instances where the Board failed to supervise.³⁸ This fails because MISD “cannot be held liable under § 1983 on a *respondeat superior* theory.” *Doe v. Taylor Indep. Sch. Dist.*, 15 F.3d 443, 452 (5th Cir. 1994). Therefore, the failure to supervise claims against MISD are **DISMISSED**.

E. The ADA and Rehabilitation Act Claims Fail Against MISD Because Plaintiffs Do Not Allege Intentional Discrimination.

Title II of the ADA provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services,

³⁷ Pl.’s Am. Compl. ¶ 78, ECF No. 19.

³⁸ *Id.* at ¶ 81 (“Martin and Carter failed to properly supervise Bean and Dale’s management of the classroom where the abuse occurred for months.”); *see also id.* at ¶ 82 (“Martin and Carter did not supervise how it subordinate, like Bean and Dale, disciplined students, interacted with special needs students, or reported improper conduct with special needs students.”); *see also id.* at ¶ 83 (“Martin and Carter knew or should have known to a high degree of certainty that Bean and Dale and other employees would be placed in situations requiring disciplining children, behavior management, and working with children with special needs. And Martin and Carter Knew or should have known to a high degree of [sic] certain that Bean, Dale, and other employees would be placed in situations requiring the handling of suspected child abuse.”); *see also id.* at ¶ 84 (“Martin and Carter failed to supervise Bean and Dale resulting in Bean and Dale’s physical assault and emotional abuse of [Plaintiffs].”).

programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132. A “public entity” includes an “instrumentality of a State or States or local government.” 42 U.S.C. § 12131(1)(B). “The language in the ADA generally tracks the language set forth in [Section 504].” *Delano-Pyle v. Victoria Cnty.*, 302 F.3d 567, 574 (5th Cir. 2002). Thus, “[j]urisprudence interpreting either section is applicable to both.” *Delano-Pyle*, 302 F.3d at 574. “The ADA and § 504 provide for vicarious liability. This means that a plaintiff need not identify an official policy to sustain a claim against a public entity as it may be held vicariously liable for the acts of its employees under either statute.” *Paley*, 81 F.4th at 449 (5th Cir. 2023). Under both statutes, Plaintiffs seek damages from MISD for the abusive actions of Bean and Dale.

To obtain compensatory damages, as Plaintiffs seek here, Plaintiffs must show intentional discrimination. *A.J.T. by and through A.T. v. Ossea Area Schools, Indep. Sch. Dist.*, 605 U.S. 335, 344–355 (2025). Defendant argues that Plaintiffs fail to allege the conduct of Bean or Dale was motivated by Plaintiffs’ disability.³⁹ The Court agrees.

Plaintiffs allege that “Bean and Dale physically assaulted them and emotionally abused them in response to the symptoms of their disabilities.”⁴⁰ Plaintiffs attribute this fault to the fact that they did not receive training concerning discipline or non-violent crisis intervention for children with special needs.⁴¹ But nothing else in the complaint or in Plaintiffs response indicates or alleges that there was a “discriminatory motive.” *See Paley*, 81 F.4th at 450. While Bean and Dale’s actions may have been the products of “poor judgment” or in some instances completely arbitrary, nothing lends the inference that Plaintiffs disabilities or symptoms were a motivating factor.

³⁹ MISD’s Br. Supp. Mot. to Dismiss 17, ECF No. 30.

⁴⁰ Pl.’s Am. Compl. ¶ 129, ECF No. 19.

⁴¹ *Id.* at ¶ 138.

In conclusion, Plaintiffs fail to allege intentional discrimination and section “504 of the Rehabilitation Act and Title II of the ADA are not the proper vehicles for remedying all unreasonable, inappropriate, unprofessional, and/or unduly harsh conduct by public agents.” *Paley*, 81 F.4th at 452 (5th Cir. 2023). Plaintiffs’ claims against MISD for discrimination under the ADA and Rehabilitation Act are **DISMISSED**.

F. Plaintiff Fails to Establish a Prima Facie Case of Failure to Train and Failure to Supervise Against Martin and Carter.

Plaintiffs assert two claims against superintendent Martin and principal Carter in their individual capacities under the Fourteenth Amendment and 42 U.S.C. § 1983: (1) failure to train; and (2) failure to supervise. Martin and Carter assert qualified immunity⁴² but the Court finds that Plaintiffs fail to establish a prima facie case to begin with.⁴³

Plaintiffs do not adequately plead a failure to train claim such that the Court should reach the issue of qualified immunity. To succeed on a failure to train theory, Plaintiff must plead that “the defendant failed to train or supervise the [officials] involved.” *Stapleton v. Lozano*, 125 F.4th 743, 754 (5th Cir. 2025). There are no allegations that Carter or Martin failed to train anyone. Plaintiffs allege that “Millsap Independent School District failed to train tis personnel[,]”⁴⁴ that at no point did “Martin and Carter, as supervisors, receive training[,]”⁴⁵ and that “[h]ad Millsap Independent School District . . . properly trained Martin and Carter, they would have reported Bean and Dale . . . after being informed of the conduct.”⁴⁶ Plaintiffs’ own pleading assigns all the failure-

⁴² Martin’s Br. Supp. Mot. Dismiss 15, ECF No. 25.

⁴³ Only Defendant Carter makes this argument in her motion to dismiss, but the Court finds that it is true for Martin as well. *See* Carter’s Br. Supp. Mot. 5,7, ECF No. 22.

⁴⁴ Pl.’s Am. Compl. ¶ 69, ECF No. 19.

⁴⁵ *Id.* at ¶ 62.

⁴⁶ *Id.* at ¶ 70.

to-train-blame to MISD. Plaintiffs' failure to train claims against Martin and Carter fail for this reason and are **DISMISSED**.

Plaintiffs' failure to supervise claims likewise fail because Plaintiffs do not plead deliberate indifference. "The plaintiff must establish that the supervisor acted, or failed to act, with deliberate indifference to violations committed by their subordinates." *Stapleton v. Lozano*, 125 F.4th 743, 754 (5th Cir. 2025). Plaintiffs only allegation relating to deliberate indifference is that "Martin and Carter knew or should have known to a high degree of certainty that Bean and Dale and other employees would be placed in situations requiring disciplining children, behavior management, and working with children with special needs. And Martin and Carter knew or should have known to a high degree of certain [sic] that Bean, Dale, and other employees would be placed in situations requiring the handling of suspected child abuse."⁴⁷

This is insufficient because the facts in Plaintiffs complaint demonstrate immediate action from Martin and Carter after Bean and Dale's violations. *Cf. Doe v. Jewell*, 151 F.4th 236, 245–46 (5th Cir. 2025) (defendant-principal had multiple reports and warning signs that a child was being sexually abused and then did nothing). Martin was first informed of the abuse on February 19, 2025.⁴⁸ Martin immediately directed another administrator to sit in the special needs classroom and observe for the rest of that school day.⁴⁹ After school, Dale and Bean were placed on administrative leave and removed from any classroom interaction with students.⁵⁰ On the same day, Martin contacted the school's law firm and commissioned an external investigation which began that evening.⁵¹ Martin reported the abuse to Texas Education Agency, Child Protective

⁴⁷ *Id.* at ¶ 83.

⁴⁸ *Id.* at ¶ 35.

⁴⁹ Pl.'s Am. Compl. Ex. 3 (Probable Cause Affidavit) 4, ECF No. 19-3.

⁵⁰ *Id.*

⁵¹ *Id.*

Services, and the Parker County Sheriff's Office on February 28, 2025 (reporting Dale), and on March 3, 2025 (reporting Bean).⁵² When A.C.'s mother asked Carter about the incident, Carter told her that the matter was being investigated.⁵³

Plaintiff directs the Court to some of Martin's actions which seem more like damage control than adequate supervision: directing the whistleblower and two other paraprofessionals to sign an NDA which prohibited them from discussing the incident with other school staff, parents, or students,⁵⁴ and instructing the whistleblower to delete videos of the abuse and text messages regarding other issues in the classroom.⁵⁵ Plaintiff also directs the Court to the fact that principal Carter wrote a letter of recommendation for her daughter Bean to work in another school district.⁵⁶ Although these actions are somewhat fishy, they do not undermine the fact that action was taken.

While none of these children should have ever been harmed or made to feel lesser than, these facts do not tell the story of state actors who "kn[e]w of and disregard[ed] an excessive risk to the victim's health or safety." *Doe v. Ferguson*, 128 F.4th 727, 735 (5th Cir. 2025). Once Martin and Carter were informed of the violations, action was taken; People were removed, reported, and investigated. *Id.* ("The state actor's actual knowledge is critical to the inquiry—a failure to alleviate a significant risk that he should have perceived but did not, while no cause for commendation, does not rise to the level of deliberate indifference." (internal citation and quotation omitted)). Thus, Plaintiffs' failure to supervise claims against Martin and Carter are **DISMISSED**.

⁵² *Id.* at ¶ 28.

⁵³ *Id.* at ¶ 29.

⁵⁴ Pl.'s Am. Compl. ¶ 35, ECF No. 19.

⁵⁵ *Id.*

⁵⁶ *Id.* at ¶ 31.

G. Leave to Amend is Denied.

Federal Rule of Civil Procedure 15(a)(2) permits a court to grant leave to amend pleadings and even “evinces a bias in favor of granting leave to amend.” *Herrmann Holdings Ltd. v. Lucent Techs. Inc.*, 302 F.3d 552, 566 (5th Cir. 2002). But “leave to amend under Rule 15 is by no means automatic.” *Goldstein v. MCI WorldCom*, 340 F.3d 238, 254 (5th Cir. 2003). Plaintiffs have already amended the complaint once, and Plaintiffs now request leave to amend again. But Plaintiffs do not “set forth with particularity the grounds for the amendment and the relief sought.” *Willard*, 336 F.3d at 387. When a plaintiff fails to indicate what might be added to the complaint if allowed to amend, a district court may dismiss the cause of action with prejudice. *See Joseph v. Bach & Wasserman, L.L.C.*, 487 F. App’x 173, 178 (5th Cir. 2012). Because Plaintiffs fail to specify how they would amend their complaint leave to amend is **DENIED**.

IV. CONCLUSION

For the abovementioned reasons, Defendant’s Bean’s Motion (ECF Nos. 21, 23) is **GRANTED in PART** and **DENIED in PART**; Defendant Dale’s Motion (ECF No. 27) is **GRANTED**; Defendant MISD’s Motion (ECF No. 29) is **GRANTED**; Defendant Martin’s Motion (ECF No. 25) is **GRANTED**; and Defendant Carter’s Motion (ECF No. 22) is **GRANTED**. Plaintiffs’ claims are **DISMISSED** with **PREJUDICE** except for the right to bodily integrity claim against Defendant Bean.

SO ORDERED on this **31st day of March 2026**.


 Reed O'Connor
 CHIEF UNITED STATES DISTRICT JUDGE