

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA**

WILLIAM MATHIS and KENNEDY DAVIS,
*individually and on behalf of all others
similarly situated,*

Plaintiffs,

v.

U.S. PAROLE COMMISSION, et al.,

Defendants.

Case No. 1:24-01312 (TNM)

**PLAINTIFFS' REPLY IN SUPPORT OF PLAINTIFFS' STATEMENT OF
UNDISPUTED MATERIAL FACTS**

Pursuant to Local Rule 7(h), Plaintiffs respectfully submit this reply in support of their Statement of Undisputed Material Facts In Support Of Plaintiffs' Motion for Partial Summary Judgment ("SUMF").

Background on United States Parole Commission and the Court Services and Offender Supervision Agency

1. Defendants the United States Parole Commission ("USPC" or "the Commission") and Court Services & Offender Supervision Agency ("CSOSA") work together to administer parole and supervised release ("supervision") in the District of Columbia. Ex. 1, Answer ¶ 13 (ECF No. 38); National Capital Revitalization and Self-Government Improvement Act of 1997, Pub. L. No. 105-33, § 11231, 111 Stat. 712, 745; 28 C.F.R. § 2.70(a) (parole); *id.* § 2.200(a) (supervised release).

Response: Admit.

2. The fundamental distinction between parole and supervised release is based on when an individual was convicted. Parole applies to individuals convicted of felony offenses before August 5, 2000, while supervised release applies to people convicted of felony offenses on or after August 5, 2000. Ex. 2, CSOSA Operations Manual (2018), at ch. II, p.6, 12 (ECF No. 40-9). There is no functional difference for purposes of this lawsuit.

Response: Admit.

3. The Commission and CSOSA are federal executive agencies. Ex. 1 (Answer) ¶¶ 5-8; Ex. 3, Deposition of CSOSA, by and through its designated representative, Kaitlin Forsha (Dec.15, 2025), at 47:12-15; Ex. 4, Deposition of Oscar Vela, Individually and as a Designated Representative of the United States Parole Commission (Dec. 17, 2025), at 38:14-22.

Response: Admit.

4. The Commission is responsible for setting the conditions of supervision and making final decisions regarding the continuation, revocation, or termination of supervision. Ex. 1 (Answer) ¶ 14.

Response: Admit.

5. CSOSA is responsible for the day-to-day aspects of supervision. *Id.* ¶ 15.

Response: Admit.

6. CSOSA enforces the conditions that have been established by the Commission. Ex. 3 (CSOSA Dep.) at 47:4-7.

Response: Admit.

7. Purposes of supervision include “to help supervisees reintegrate to society . . . and to ensure successful completion of supervision.” *Id.* at 54:18-55:8; *see also* Ex. 5, CSOSA, *Who*

We Are: Mission, Goals, and Guiding Principles, <https://www.csosa.gov/mission-goals-guiding-principles/>.

Response: Admit.

Defendants' General Approach to Supervision

Setting Supervision Conditions

8. The Commission sets the same “general” conditions for all supervisees. Ex. 4 (Commission Dep.) at 42:7-9, 123:11-17; Ex. 3 (CSOSA Dep.) at 132:14-17.

Response: Admit.

9. The Commission may then impose additional heightened “special” conditions, such as requiring participation in drug treatment. Ex. 4 (Commission Dep.) at 131:6-12; 28 C.F.R. §§ 2.85(b), 2.204(b).

Response: Admit.

10. Neither the person on supervision nor their attorney is present when the Commission imposes conditions. Ex. 4 (Commission Dep.) at 119:12-19.

Response: Admit.

11. CSOSA sets details of the conditions imposed by the Commission, such as by specifying how frequently people must report to appointments with a CSO or which treatment program they must participate in. Ex. 2 (CSOSA Operations Manual (2018)) at ch. II, pp. 11-13, ch. III, pp. 11-4.

Response: Admit.

12. CSOs employed by CSOSA monitor those on supervision. Ex. 3 (CSOSA Dep.) at 56:7-22, 61:2-9.

Response: Admit.

13. CSOs make the initial determination as to whether someone has violated the conditions of supervision. Ex. 2 (CSOSA Operations Manual (2018)) at ch. II, p.5.

Response: Admit.

Addressing Violations of Supervision Conditions

14. People may violate supervision conditions by committing a new criminal offense or by committing “technical” violations. Ex. 6, CSOSA’s FY 2024 Budget Request Summary Statement and Frequently Asked Questions document (Mar. 9, 2023), at 23 (ECF No. 40-3).

Response: Admit.

15. Technical violations occur when someone’s conduct does not violate criminal law, but rather the administrative terms of supervision, such as missing an appointment with a CSO, failing to get a job, or skipping a drug test. Ex. 7, CSOSA’s Congressional Budget Justification for its Community Supervision Program for Fiscal Year 2024 (Mar. 9, 2023), at 35 (ECF No. 40-10). **Response:** Admit.

16. Technical violations can trigger discipline, including jail time. *Id.*

Response: Admit.

17. CSOs generally have discretion to respond to alleged violations—including technical violations—informally; to apply “graduated sanctions,” such as increasing the frequency of appointments, increasing substance use testing, requiring GPS location monitoring, or imposing a curfew; or to file an alleged violation report (“AVR”). Ex. 2 (CSOSA Operations Manual (2018)) at ch. II, p. 1, ch. VI, pp. 56-57; Ex. 7 (CSOSA FY2024 Budget Justification) at 22; Ex. 8, Court Services and Offender Supervision Agency for the District of Columbia, Strategic Plan, Fiscal Years 2022-2026, at 30 (ECF No. 40-6); Ex. 1 (Answer) ¶ 63.

Response: Admit.

18. An AVR is a report generated by a CSO that alerts the Commission to alleged supervision violations. Ex. 4 (Commission Dep.) at 145:11-15.

Response: Admit.

19. An AVR can request that the Commission issue an arrest warrant and begin the revocation process. Ex. 2 (CSOSA Operations Manual (2018)) at ch. II, p. 1, ch. VI, pp. 56-57; Ex. 1 (Answer) ¶ 15; Ex. 4 (Commission Dep.) at 146:13-15.

Response: Admit.

20. If the Commission issues an arrest warrant, the person on supervision is incarcerated at the D.C. Jail while awaiting their probable cause hearing. Ex. 4 (Commission Dep.) at 166:7-167:1.

Response: Admit.

21. Each year, CSOs seek the arrest of hundreds of D.C. residents for solely technical violations of their conditions of supervision. Ex. 7 (CSOSA FY2024 Budget Justification) at 31.

Response: Admit.

22. When a supervisee is accused of a supervision violation, a Commission hearing examiner conducts a probable cause hearing. Ex. 4 (Commission Dep.) at 108:2-109:2.

Response: Admit that the Commission often conducts a probable cause hearing following an accusation that a supervisee violated the conditions of supervision, but deny to the extent that Plaintiffs imply a probable cause hearing always follows. *See* Commission Dep. at 108:2-7, 146:13-22, 147:1-150:1; 28 C.F.R. §§ 2.98, 2.101(h), 2.211, 2.214(h).

23. At a probable cause hearing, the hearing examiner determines if there is probable cause to support the alleged violation and, if so, whether the person should nonetheless be

reinstated to supervision or if they should proceed to a final revocation hearing. Ex. 9, MATHIS-USPC-0000011-13 (28 C.F.R. § 2.214(a), (d)).

Response: Admit.

24. If the Commission decides to proceed to a final revocation hearing, the individual is incarcerated at the D.C. Jail for the weeks or months prior to that hearing. *Id.* (28 C.F.R. §§ 2.214(d)(2), 2.215(f)) (Commission regulations requiring local revocation hearing to be held within 65 days).

Response: Admit as to weeks, noting that the citation references a hearing within 65 days.

25. At the final revocation hearing, a hearing examiner listens to evidence from the CSO, the supervisee, and the supervisee's counsel to make a recommendation as to whether supervision should be reinstated or revoked and, if revoked, the length of the sentence. Ex. 4 (Commission Dep.) at 159:21-160:17.

Response: Admit.

26. The Commission can override the recommendation of the hearing examiner at both the probable cause and final revocation hearing stages, including by lengthening the recommended sentence. *Id.* at 59:1-6, 179:3-5, 217:18-22.

Response: Admit.

27. If the Commission reinstates the person to supervision, it can modify the person's supervision conditions. Ex. 10, Commission Rules and Procedures at 257 (ECF No. 3-15); 28 C.F.R. § 2.218.

Response: Admit.

28. The Commission documents any changes to supervision conditions or instructions to CSOSA following the revocation process on a Notice of Action form. Ex. 4 (Commission Dep.) at 174:3-11.

Response: Admit.

29. If the Notice of Action does not list changes to supervision conditions, the original conditions still apply. *Id.* at 219:16-220:16.

Response: Admit.

Background on Plaintiffs

30. Kennedy Davis is a 50-year-old Black man on lifetime parole. Ex. 11, Declaration of Kennedy Davis in Support of Renewed Motion for Class Certification ¶¶ 1-4 (ECF No. 40-15); Ex. 1 (Answer) ¶¶ 4, 95-96.

Response: Admit.

31. Mr. Davis experiences chronic pain stemming from third-degree burns on his bones and ribs—injuries that have required multiple rounds of surgery. Ex. 11 (K. Davis Decl.) ¶¶ 5-6.

Response: The allegations in this paragraph are immaterial because the record citation fails to establish that this medical condition was documented to Defendants during the relevant time period or that Defendants were on notice of it. In addition, self-diagnosis does not constitute competent evidence at summary judgment to establish the existence, extent or inception of a medical condition or whether and to what extent it limits a major life activity.

Plaintiffs' Reply: Defendants' characterization of facts as immaterial is "patently inefficient to controvert the truth of the matter identified." *Herrion v. Children's Hosp. Nat'l Med. Ctr.*, 786 F. Supp. 2d 359, 362 (D.D.C.), *aff'd*, 448 F. App'x 71 (D.C. Cir. 2011); *Jankovic v. Int'l Crisis Grp.*, 72 F. Supp. 3d 284, 291 (D.D.C. 2014), *aff'd*, 822 F.3d 576 (D.C. Cir. 2016) (challenging "purported undisputed facts as 'immaterial'" "does not raise a genuine issue of material fact" and "the Court will treat those facts as conceded"). Defendants show no genuine dispute of material fact. Defendants do not dispute that Mr. Davis experiences chronic pain

stemming from third-degree burns on his bones and ribs, or that those injuries have required multiple rounds of surgery. Nor do Defendants offer any evidence that Mr. Davis does *not* have these conditions. Indeed, Defendants’ own records substantiate their awareness of these conditions. *See infra* ¶¶ 127-28 (CSOSA knowledge of Davis’s multiple scheduled surgeries and mobility limitations); ¶ 129 (Commission knowledge Davis needed treatment for his burns). Rather, Defendants dispute the legal significance of undisputed facts: Defendants’ assertions that “the record citation fails to establish that this medical condition was documented to Defendants . . . or that Defendants were on notice of it” and that “self-diagnosis does not constitute competent evidence” to establish a disability are legal conclusions, not factual disputes. As a matter of law, Defendants are incorrect that more evidence is needed to substantiate Mr. Davis’s disabilities, *see, e.g., Katz v. City Metal Co.*, 87 F.3d 26, 32 (1st Cir. 1996) (“There is certainly no general rule that medical testimony is always necessary to establish disability.”); Pls.’ Summary Judgment Cross-Op/Reply at 6-7, or that Mr. Davis must establish that Defendants were on notice of his accommodation needs, *see* Pls.’ Summary Judgment Cross-Op/Reply at 19-21.

32. Mr. Davis’s burns and corresponding surgeries substantially limit his ability to walk. He has had to use a wheelchair, crutches, and a walker at various times while on parole. *Id.* ¶¶ 18-21.

Response: The allegations in this paragraph are immaterial because the record citation fails to establish that this medical condition was documented to Defendants during the relevant time period or that Defendants were on notice of it. In addition, self-diagnosis does not constitute competent evidence at summary judgment to establish the existence, extent or inception of a medical condition or whether and to what extent it limits a major life activity.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute the factual assertions in the above paragraph. Indeed, Defendants’ own records substantiate that they knew that Mr. Davis had multiple scheduled surgeries, *infra* ¶ 128, needed treatment for his burns, *id.* ¶ 129, and at one point was “on crutches,” *id.* ¶ 127. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that more evidence is needed to substantiate these disabilities, *see Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7, or that Mr. Davis must establish that Defendants were on notice of his accommodation needs, *see Pls.’ Summary Judgment Cross-Op/Reply* at 19-21.

33. Mr. Davis also has depression, anxiety, and posttraumatic stress disorder (PTSD), which substantially limit his ability to think, concentrate, and interact with others. *Id.* ¶ 7; Ex. 12, Declaration of Tamara Seltzer ¶¶ 9-10, 14 (ECF No. 3-4). This makes it difficult for him to keep track of and attend all of his supervision appointments, such as drug testing twice a week and regular reporting to his CSO via phone and in person—on top of frequent medical appointments for his burns and mental health treatment. Ex. 11 (K. Davis Decl.) ¶¶ 7, 11-15.

Response: The allegations in this paragraph are immaterial because the record citation fails to establish that this medical condition was documented to Defendants during the relevant time period or that Defendants were on notice of it. In addition, self-diagnosis does not constitute competent evidence at summary judgment to establish the existence, extent or inception of a medical condition or whether and to what extent it limits a major life activity.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*,

786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute the factual assertions in the above paragraph. Indeed, Defendants’ own records substantiate that Mr. Davis has mental health conditions. *See infra* ¶¶ 122-26 (CSOSA knowledge of Mr. Davis’s mental health conditions); ¶ 130 (Commission’s knowledge of Mr. Davis’s mental health needs). Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that more evidence is needed to substantiate these disabilities, *see Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7, or that Mr. Davis must establish that Defendants were on notice of his accommodation needs, Pls.’ Summary Judgment Cross-Op/Reply at 19-21.

34. This Court certified Mr. Davis and his attorneys to represent a class of “all people with a disability who are on or will be on parole or supervised release in the District of Columbia under the Commission’s and CSOSA’s supervision, and who need accommodations in order to have an equal opportunity to succeed on parole or supervised release.” Ex. 13, Memorandum Order at 5-6, 18 (ECF No. 47).

Response: This is not an assertion of fact but a statement of a ruling in this lawsuit. To the extent any response is required, Defendants refer to the referenced Memorandum Order for a complete and accurate statement of its contents.

Plaintiffs’ Reply: This assertion states the Court’s previous order regarding the definition of the class, which is a record fact.

35. Class members each have at least one disability within the meaning of the Rehabilitation Act. *Id.*

Response: This is not an assertion of fact but a statement of a ruling in this lawsuit. To the extent any response is required, Defendants admit that the class, by definition, includes “all people with a disability...,” but otherwise deny. Ex. 13, Memorandum Order at 5, 18 (ECF No. 47)

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that each class member, by definition, has at least one disability.

36. Example categories of disabilities include: physical, sensory, mental health, intellectual, and developmental disabilities. Ex. 14, Expert Report of Kelly Mitchell (Sept. 16, 2025), at 9-13.

Response: This is not an assertion of fact to which a response is required under Local Civil Rule 7(h), but rather a statement of opinion.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that disabilities may be physical, sensory, mental health, intellectual, and developmental. Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2) (permitting party to cite “materials in the record” so long as they “can[] be presented in a form that would be admissible in evidence”); Fed. R. Civ. P. 56(c)(4) (courts may consider expert declarations at summary judgment provided they are “made on personal knowledge” and “set out facts that would be admissible in evidence”); *Jankovic*, 72 F. Supp. 3d at 291 (“[T]he Court . . . can and will consider expert reports in resolving the parties’ summary judgment motions”). This paragraph relies on Ms. Mitchell’s report for a factual observation, not for a legal opinion.

37. Class members are on or will be on parole or supervised release (collectively, “supervision”) in the District of Columbia under the Commission’s and CSOSA’s supervision. Ex. 13 (Class Cert. Memorandum Order) at 5-6, 18.

Response: This is not an assertion of fact but a statement of a ruling in this lawsuit. To the extent any response is required, Defendants refer to the referenced Memorandum Order for a complete and accurate statement of its contents.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. This assertion states the Court’s previous order regarding the definition of the class, which is a record fact.

Defendants’ Awareness of Plaintiffs’ Disabilities

38. CSOSA and the Commission are aware that a significant number of people under their supervision have disabilities. Ex. 1 (Answer) ¶ 22; *id.* ¶ 148 (“High numbers of people on parole or supervised release have disabilities and thus may need reasonable accommodations to have an equal opportunity to succeed on supervision.”).

Response: Admit.

39. Both mental and physical health conditions are common among the supervised population. *Id.* ¶ 23; Ex. 8 (CSOSA 2022-2026 Strategic Plan) at 14.

Response: Admit.

40. CSOSA has made varying estimates of the percentage of people under its supervision with a disability. CSOSA has estimated that of the 3,582 individuals who were under CSOSA’s supervision and subject to the Commission’s release authority between June 1, 2022, and March 15, 2025, 3,222 (90%) had some indication of disability. Ex. 15, Defendants’ July 11, 2025 Updated Narrative Response to Plaintiffs’ Request for Production, at 3.

Response: The first sentence fails to comply with Local Civil Rule 7(h) because there is no supporting record citation and thus no response is required to that sentence. Admit as to the second sentence.

41. In the 11 years that Oscar Vela spent as a hearing examiner, approximately “one or two” of “eight hearings a month” he conducted involved “people with disabilities, if we’re classifying a disability as [] physical or mental.” Ex. 4 (Commission Dep.) at 161:3-10.

Response: Admit.

42. In 2022, “nearly 25%” of those entering supervision “reported mental health issues at intake.” Ex. 1 (Answer) ¶ 22.

Response: Admit.

43. CSOSA has observed a “proliferation of . . . mental health challenges” among the “supervised population” “over the past several years.” Ex. 8 (CSOSA 2022-2026 Strategic Plan) at 4.

Response: Admit.

Impact of Disabilities on People’s Ability to Navigate Supervision

44. Defendants acknowledge that people with disabilities face heightened barriers to complying with their supervision requirements. Ex. 4 (Commission Dep.) at 163:18-21 (Commission agreeing that “disabilities can make it harder for someone to comply with their supervision requirements”); *see, e.g., id.* at 161:13-16 (Commission agreeing that limited mobility “would make it more difficult” to attend appointments); *id.* at 163:6-9 (same for memory issues); Ex. 16, Attachment 1 to Defendants’ May 12, 2025 Response to Interrogatories, at 3 (CSOSA acknowledging that a potential disability “may impact the person’s ability to comply with supervision requirements”).

Response: The assertion in this paragraph is not supported by the record citations to the extent that it asserts that all people with disabilities face heightened barriers to comply with their supervision requirements. Admit that it may be harder for some people with disabilities to comply with their supervision requirements, depending on the disability and the requirements at issue. Ex. 4, (Commission Dep.) at 161:13-16, 163:6-9, 163:18-21; Ex. 16, Attachment 1 to Defendants’ May 12, 2025 Response to Interrogatories, at 3. Defendants otherwise deny.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that people with disabilities may face heightened barriers to complying with their supervision requirements, nor do they dispute the statements in the cited depositions and interrogatory responses.

45. As Plaintiffs' expert explained, people with disabilities can, for example, have difficulty understanding their supervision conditions, remembering and timely attending appointments, physically accessing meeting locations, and navigating supervision requirements while managing chronic health conditions. Ex. 14 (Mitchell Rep.) at 7, 9-13; Ex. 17, Deposition of Kelly Mitchell, at 32:7-18.

Response: This is a statement of opinion not fact and thus fails to comply with Local Civil Rule 7(h). Accordingly, no response is required.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions contained in the above paragraph. Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). This paragraph relies on Ms. Mitchell's report for a factual observation based on her experience, not for a legal opinion.

46. Accordingly, it is often exceedingly difficult for people with disabilities to meet supervision requirements without reasonable accommodations. Ex. 14 (Mitchell Rep.) at 16. Accommodations "must be tailored to individual circumstances," but common accommodations that might benefit many people include: "modifying reporting schedules, such as adjusting meeting locations and times"; "providing written materials in large print, plain language, or Braille"; "and ensuring that any supervision programs (such as drug/alcohol or mental health treatment) are

appropriate to the individual’s disability-related needs (e.g., reading comprehension level, trauma history, or mobility limitations).” *Id.* at 7-8; *see also id.* at 14-15.

Response: This is a statement of opinion not fact and thus fails to comply with Local Civil Rule 7(h). Accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions contained in the above paragraph. This paragraph relies on Ms. Mitchell’s report for factual observations based on her experience, not for an instruction on the law. *See* Fed. R. Evid. 702(a) (expert may testify regarding “specialized knowledge [that] will help the trier of fact”). Moreover, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

47. Absent accommodations, people with disabilities are regularly unable to follow their supervision rules, leading to technical violations, revocation, and incarceration. *Id.* at 9; Ex. 18, Declaration of Rashida Edmonson in Support of Renewed Motion for Class Certification ¶ 33 (ECF No. 40-14).

Response: This is a statement of opinion not fact and thus fails to comply with Local Civil Rule 7(h). Accordingly, no response is required. To the extent any response is required, the assertion is not supported by competent evidence and is denied. *See also* Defendants’ Statement of Undisputed Material Facts ¶¶ 14-94 and record evidence cited therein.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. This is a statement of fact based on Ms. Edmondson’s experience as an attorney who has represented, and supervised the representation of “thousands of people in parole and supervised release (supervision) revocation

hearings” over more than 17 years. *See* Ex. 18 ¶¶ 1-3.¹ It does not offer a legal opinion. Further, her statement is corroborated by record evidence showing numerous examples of people with disabilities who are unable to follow their supervision rules, leading to technical violations, revocation, and incarceration. *See, e.g., infra* ¶¶ 58-69; 72-76; 104-11.

48. The Commission regularly revokes supervision and requires a new term of incarceration for supervisees with disabilities who are accused of technical violations. *See* Ex. 18 (Edmondson Decl.) ¶¶ 27, 33; Ex. 7 (CSOSA FY2024 Budget Justification) at 35; Ex. 17 (Mitchell Dep) at 33:3-6.

Response: Deny. The record citation does not support this assertion, which is speculative and constitutes opinion, not fact.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that the Commission has revoked supervision and required a new term of incarceration for supervisees with disabilities who are accused of technical violations. Further, the record citation supports Ms. Edmondson’s factual observations, based on her experience, that people accused of technical violations “are automatically put in jail” pending revocation proceedings, and that “[t]he Commission regularly revokes [her office’s] clients’ supervision and incarcerates them for violations that they know stemmed from a disability-related limitation.” Ex. 18 (Edmondson Decl.) ¶¶ 27, 33. The record citation likewise supports Ms. Mitchell’s factual assertion, based on her experience, that “[b]ecause of [disability-related] obstacles, [people with disabilities] may be at a heightened risk of incarceration for non-compliance with their supervision conditions.” Ex. 17 (Mitchell Dep) at 33:3-6. Moreover, as discussed *infra* ¶ 49, Defendants admit that their own

¹ Unless otherwise stated, all citations to “Ex.” refer to Plaintiffs’ exhibits.

records show that individuals with mental disabilities are subject to revocation proceedings for technical violations.

49. Individuals with “mental disabilities” are almost twice as likely to have an AVR filed against them for a technical violation than the general supervision population. Ex. 19, CSOSA Response to Freedom of Information Act Request (June 23, 2023), at 7-8 (ECF No. 40-2); Ex. 1 (Answer) ¶ 65.

Response: This assertion does not accurately summarize the cited paragraph of the Answer, which refers to an allegation based on the referenced FOIA response. Defendants refer to the cited response to the FOIA request for a complete and accurate statement of its contents and deny this allegation to the extent inconsistent with that response.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. The FOIA response speaks for itself and confirms precisely what Plaintiffs assert: “Of the 2,816 offenders in the cohort [of people on parole and supervised release between 2022 and 2023], 293 (10%) had an AVR sent against them for technical violations alone. In contrast, of the 484 offenders in the cohort with a ‘mental disability,’ 88 (18%) had an AVR sent against them exclusively for technical violations.” Ex. 19 at 7-8 (internal citation omitted).

50. The Commission also often reinstates individuals with disabilities to supervision, and reimposes the same conditions as before, without modifications to address the barriers that led to the violation. *See infra* ¶¶ 75-76, 118-19, 165; Ex. 18 (Edmonson Decl.) ¶ 33.

Response: The citation to “*infra* ¶¶ 75-76, 118-19, 165” is not sufficient to identify the record citation, and the Edmonton Declaration is opinion not an assertion of fact.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this fact. The *infra* references refer to subsequent paragraphs in Plaintiffs’ SUMF. *See infra*

¶¶ 75-76, 118-19, 165. Moreover, the cited assertion from Ms. Edmondson that “the Commission reinstates our clients to supervision, and returns them to the community with the same conditions that their known disability demonstrably precludes them from following, without making any reasonable accommodations,” Ex. 18 ¶ 33, is a statement of fact based on Ms. Edmondson’s observations during her over 17 years as an attorney representing people on supervision, not an opinion.

Examples of Plaintiffs’ Experiences

Supervisee 1 ([REDACTED])

51. Defendants are aware that Supervisee 1 has multiple diagnosed disabilities—PTSD, Bipolar Disorder, Schizophrenia, attention-deficit/hyperactivity disorder (ADHD)—and limited mobility and memory loss resulting from gunshot wounds. Ex. 20, MATHIS-LW-CSOSA-013358; Ex. 21, MATHIS-LW-CSOSA-013305-013306.

Response: Admit with respect to Defendant CSOSA; but deny with respect to Defendant USPC, as the record citations do not support that assertion.

52. Supervisee 1’s mother told his CSO that he “suffers from memory loss so she has to do a lot of stuff for him.” Ex. 22, MATHIS-LW-CSOSA-013361-013362, at -013362. However, his CSO did not provide accommodations to ensure he could complete supervision despite his memory lapses. Ex. 23, Attachment 2 to Expert Report of Kelly Mitchell, at 1; Ex. 22 (MATHIS-LW-CSOSA-013361-013362) at -013361-013362.

Response: Deny the first sentence of this paragraph, as the record citation actually states that Supervisee 1’s *brother*, not Supervisee 1, “suffers from memory loss.” Ex. 22, MATHIS-LW-CSOSA-013361-013362, at -013362. The second sentence is predicated on the misstatement in the preceding sentence.

53. After Supervisee 1 was hospitalized for gunshot wounds, Supervisee 1 contacted his CSO to explain that his hospitalization was the reason for his lack of communication. Ex. 23 (Mitchell Rep., Att. 2) at 2; Ex. 21 (MATHIS-LW-CSOSA-013305-013306) at -013306.

Response: Admit.

54. Rather than offering a home or telephonic visit, the CSO demanded that Supervisee 1 report in person “today.” Ex. 21 (MATHIS-LW-CSOSA-013305-013306) at -013306.

Response: Admit that the CSO asked Supervisee 1 to report in person “today,” but deny that this was a demand, as Supervisee 1 and the CSO worked out a re-scheduling of the reporting requirement to two days later. Ex. 21, (MATHIS-LW-CSOSA-013305-013306) at -013306.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that the CSO asked Supervisee 1 to report in person “today” and did not offer a home or telephonic visit.

55. Two days later, the CSO “observed [Supervisee 1] limping” due to the gunshot wound but offered no accommodation to address his mobility limitations. *Id.* at -013305.

Response: Admit that the CSO observed Supervisee 1 limping but the remainder of this assertion is predicated on an opinion that an accommodation was needed to address the limp, which is not supported by the record citation, and therefore not a factual assertion.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that the CSO offered no accommodation. This paragraph asserts a concrete fact—the CSO offered no accommodation—not a legal conclusion regarding whether the CSO was *legally required* to provide an accommodation.

56. Supervisee 1's CSO acknowledged that he "presents with good intentions but his mental health issues present a barrier to his ability to communicate effectively." Ex. 24, MATHISLW-CSOSA-013326.

Response: Admit.

57. Supervisee 1's CSO provided no accommodations to help him remember or get to his appointments. *See* Ex. 14 (Mitchell Rep., Att. 2) at 2.

Response: This assertion is predicated on an opinion that an accommodation was needed to help this individual remember or get to his appointments, which is not supported by the record citation and therefore not a factual assertion.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that the CSO offered no accommodation. This paragraph asserts a concrete fact—the CSO offered no accommodation—not a legal conclusion regarding whether the CSO was *legally required* to provide an accommodation.

Supervisee 2 ([REDACTED])

58. Defendants are aware that Supervisee 2 experienced two strokes, the latter of which left him hospitalized for six months and in a coma for 36 days. Ex. 25, MATHIS-USPC-00002197 (Commission Dep., Ex. 14); Ex. 4 (Commission Dep.) at 194:6-13.

Response: Admit that, at a hearing before the Commission, Supervisee 2 represented that these medical events had occurred, but deny that Supervisee 2 submitted documentation to substantiate these medical allegations. *See* Ex. 25, MATHIS-USPC-00002197 (hearing examiner noting that the Commission had "only partial verification of the medical issues (in medical unit at CTF, walks with a cane, some verbal and memory problems displayed at the hearing)").

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that Supervisee 2 experienced two strokes, the latter of which left him hospitalized for six months and in a coma for 36 days. Further, the Commission’s own documents confirm he was “in medical unit at CTF, walks with a cane, some verbal and memory problems displayed at the hearing.” *Id.* Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that medical documentation was required to substantiate these disabilities. *See Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7.

59. Supervisee 2 had severe memory problems following his coma and could not remember his family members. Ex. 25 (MATHIS-USPC-00002197); Ex. 4 (Commission Dep.) at 194:19-21.

Response: Admit that, at a hearing before the Commission, Supervisee 2 represented that these memory problems had occurred, but deny that Supervisee 2 submitted documentation to substantiate these allegations. *See* Ex. 25, MATHIS-USPC-00002197 (hearing examiner noting that the Commission had “only partial verification of the medical issues (in medical unit at CTF, walks with a cane, some verbal and memory problems displayed at the hearing)”).

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions in the above paragraph. Further, these memory problems were documented by the hearing examiner, who noted “verbal and memory problems displayed at the hearing.” *Id.* Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that medical documentation was required to substantiate these disabilities. *See Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7.

60. He also experienced mobility limitations; he used a wheelchair for two years following his stroke. Ex. 25 (MATHIS-USPC-00002197).

Response: Admit that, at a hearing before the Commission, Supervisee 2 made this medical representation, but deny that Supervisee 2 submitted documentation to substantiate this allegation. *See* Ex. 25, MATHIS-USPC-00002197 (hearing examiner noting that the Commission had “only partial verification of the medical issues (in medical unit at CTF, walks with a cane, some verbal and memory problems displayed at the hearing)”).

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions in the above paragraph. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that medical documentation was required to substantiate the disability. *See Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7.

61. During his stroke and subsequent months-long hospitalization, Supervisee 2 lost contact with his CSO. *Id.*; Ex. 4 (Commission Dep.) at 194:15-18.

Response: Admit.

62. Supervisee 2’s CSO nevertheless filed an AVR for technical violations, including failure to report change in residence. Ex. 26, MATHIS-USPC-00002191-2194.

Response: Deny the implication of causation which is a legal conclusion not a factual assertion. Admit only that the CSO filed the referenced AVR.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that Supervisee 2’s CSO filed an AVR for technical violations, including failure to report change in residence.

63. Supervisee 2 was detained pending revocation proceedings in a prison medical unit. Ex. 25 (MATHIS-USPC-00002197); Ex. 4 (Commission Dep.) at 195:8-19.

Response: Admit.

64. The hearing examiner documented that he “came into the room with a cane” for his probable cause hearing. Ex. 25 (MATHIS-USPC-00002197); Ex. 4 (Commission Dep.) at 195:6-7.

Response: Admit.

65. The hearing examiner documented that Supervisee 2 “displayed verbal and memory problems at [his] hearing.” Ex. 25 (MATHIS-USPC-00002197); Ex. 4 (Commission Dep.) at 194:22-195:5.

Response: Admit.

66. The hearing examiner acknowledged that Supervisee 2’s “medical issues resulted in [his] inability to report.” Ex. 26 (MATHIS-USPC-00002191-2194) at -2194. However, he did not recommend that CSOSA make accommodations for his disability-related barriers; rather, he recommended that Supervisee 2 be released and ordered to report in person to CSOSA or risk arrest again. Ex. 25 (MATHIS-USPC-00002197).

Response: Defendant refers to the hearing examiner’s determination for a complete and accurate statement of its contents and denies the allegations to the extent inconsistent with the content of that determination.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that the hearing examiner’s release decision stated, in full, “Reason for Release/Summons: Medical issues resulted in inability to report. Stroke/accident/coma[,]” Ex. 26, MATHIS-USPC-00002194, or that the hearing examiner stated, upon issuing the recommendation, “[Supervisee 2] was instructed to report in person to CSOSA or risk getting a new warrant issued,” Ex. 25, at -2197. There is no dispute that the aforementioned records reflect no accommodations. *See* Pls.’ Exs. 25, 26.

67. The Commission rejected this recommendation, revoked his supervision, and imposed a six-month incarceration sentence. Ex. 27, MATHIS-USPC-00002199-2205, at -00002199-2201 (Commission Dep., Ex. 15); Ex. 4 (Commission Dep.) at 196:17-200:6.

Response: Admit.

68. There is no record in the revocation hearing digests of any accommodation being made for Supervisee 2's disability-related barriers prior to his arrest for technical violations. Ex. 27 (MATHIS-USPC-00002199-2205); Ex. 4 (Commission Dep.) at 196:10-13.

Response: Admit.

69. The Commission did not mention Supervisee 2's known disability-related barriers on the form revoking his supervision and ordering his incarceration. Ex. 27 (MATHIS-USPC-00002199-2205); Ex. 4 (Commission Dep.) at 198:20-22, 200:18-21.

Response: Deny as to the characterization of "known disability-related barriers" which is not supported by the record citations. Otherwise respond by referring to the referenced form for a complete and accurate statement of its contents.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that the Commission did not mention Supervisee 2's disabilities, or any related limitations, on the form revoking his supervision and ordering his incarceration.

Supervisee 3 ([REDACTED])

70. Defendants are aware that Supervisee 3 has documented mental health disabilities, including anxiety, for which he was admitted to a psychiatric hospital. Ex. 28, MATHIS-USPC-00000348-351 (Commission Dep., Ex. 10), at -00000348; Ex. 4 (Commission Dep.) at 175:21-176:18.

Response: Admit that Supervisee 3 had anxiety; deny as to the characterization of “mental health disabilities.”

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that Supervisee 3 had anxiety, which is a mental health disability. *See* Ex. 14 (Mitchell Rep.) at 10. Records for Supervisee 3 submitted by *Defendants* further confirm their knowledge of his mental health disabilities, as the Commission documented that “[h]e is diagnosed with having PTSD, Bipolar, Depression, ADHD, and Schizophrenia.” Defs’ Ex. 10, ECF No. 75, MATHIS-USPC-00000355-60, at -00000359.

71. Supervisee 3 called his CSO five days after his release from the hospital. Ex. 28 (MATHIS-USPC-00000348-351) at -00000348; Ex. 4, (Commission Dep.) at 176:8-13.

Response: Admit.

72. His CSO filed an AVR for solely technical violations, including failure to report for the period in which he was at the hospital. Ex. 28 (MATHIS-USPC-00000348-351) at -00000348; Ex. 4 (Commission Dep.) at 175:12-20.

Response: Admit.

73. At the probable cause hearing, the hearing examiner recommended release. Ex. 28 (MATHIS-USPC-00000348-351) at -00000350.

Response: Admit.

74. However, the Commission overrode that recommendation and required Supervisee 3 to stay in jail pending a final revocation hearing. *Id.* at -00000351; Ex. 4 (Commission Dep.) at 177:2-5, 179:3-8.

Response: Admit.

75. Following the revocation hearing, after Supervisee 3 had spent nearly one month in jail, the Commission reinstated Supervisee 3 to supervision. Ex. 29, MATHIS-USPC-00000346; Ex. 30, MATHIS-USPC-00000353.

Response: Admit.

76. Commission did not modify any conditions to accommodate his disability-related barriers or mention his disability. Ex. 4 (Commission Dep.) at 179:14-180:1, 182:2-4, 182:9-13.

Response: Deny as to the phrase “disability-related barriers” or “disability.” Admit that no medical conditions were mentioned.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. When asked to confirm “there’s no instruction here on this notice of action form for the Commission – for CSOSA to address this individual’s – any disability barriers [Supervisee 3 is] facing, right?”, Mr. Vela responded, “Not on this notice of action, no.” Ex. 4 (Commission Dep.) at 182:9-13. When asked “And this is where that [instructions to address disability barriers] would appear; right?” Mr. Vela responded, “Yes.” *Id.* at 182:14-19.

Supervisee 4 ([REDACTED])

77. Defendants are aware that Supervisee 4 has a documented mood disorder, depression, and PTSD, which impact her time management, attendance, and follow-through. Ex. 31, MATHIS-LW-CSOSA-026236-237, 026244, 026249, 026251-252, 026254, 026256-258, 026260, 026273, at -026273, -026251-252, -026260, -026254, -026249.

Response: Deny with respect to Defendant USPC, as the record citations do not support that assertion; as to CSOSA, admit that notes to such effect were taken in the running record, however refer the Court to those records for the most accurate and complete description of their contents.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that, as CSOSA’s own running record reflects, CSOSA was aware that Supervisee 4 had documented mood disorder, depression, and PTSD, and that she has difficulties with time management, attendance, and follow-through.

78. Supervisee 4’s CSO documented that Supervisee 4 “is aware” that she does not “know how to address” her behavior and “arrives late [to supervision-mandated appointments] because she is not good with time management.” *Id.* at -026258.

Response: Admit.

79. Supervisee 4’s CSO offered no accommodations to help with her time management. Instead, the CSO stated that Supervisee 4 would “no longer be able to schedule afternoon appointments due to tardiness” and “advised [her] that reporting late will result in sanctions.” *Id.*

Response: Deny the implication that the time management issue constituted a disability for which an accommodation would be warranted, which is not supported by the record citation. Admit the second sentence, other than the word “instead” which reflects the same unsupported implication. Deny to the extent that this assertion constitutes a legal opinion, rather than a factual assertion with regard to the assertion that the CSO “offered no accommodations.”

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Plaintiffs do not assert that time management is a disability; rather, time management is a limitation related to Supervisee 4’s disabilities (documented mood disorder, depression, and PTSD), as described *supra*, ¶ 77. Defendants do not dispute the factual assertions contained in this paragraph. The assertion that the CSO offered no accommodations is a concrete fact, not a legal conclusion regarding whether the CSO was *legally required* to provide accommodations.

80. The following month, Supervisee 4 told her CSO that she “would like to do better [on supervision] but is not quite sure how to put a plan in action.” Ex. 14 (Mitchell Rep., Att. 2) at 5-6; Ex. 31 (MATHIS-LW-CSOSA-026236-237, 026244, 026249, 026251-252, 026254, 026256-258, 026260, 026273) at -026256-57. Her CSO broadly “advised [her] to use any tools that will assist her” with organization and time management but offered no structured accommodations, such as setting up calendar reminders or facilitating access to other time-management tools, or other supports to facilitate compliance despite Supervisee 4’s known disability-related barriers. Ex. 14 (Mitchell Rep., Att. 2) at 5-6; Ex. 31 (MATHIS-LW-CSOSA-026236-237, 026244, 026249, 026251-252, 026254, 026256-258, 026260, 026273) at -026256-57.

Response: Deny the implication that this individual had a disability for which accommodation would be warranted, which is not supported by the record citation and deny the characterization of “broadly”; deny that the CSO “offered no structured accommodations,” because this is a legal assertion, rather than an assertion of fact. The assertion that the CSO should have set up calendar reminders, or facilitate access to other time management tools, is argument and not an assertion of fact nor supported by citations to the record.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants admit that the CSOSA running record states that “Supervisee 4 has a documented mood disorder, depression, and PTSD, which impact her time management, attendance, and follow-through.” *See supra* ¶ 77. Further, Defendants *themselves produced* Supervisee 4’s records in response to Plaintiffs’ request for “Documents . . . that concern individuals on Supervision identified by the Commission or CSOSA as having a Disability.” Ex. 44 (RFP Responses) at 2-3. Additionally, the assertion that the CSO offered no structured accommodations is a concrete fact—not a legal conclusion regarding whether the CSO was *legally required* to provide accommodations.

81. During another supervision meeting, Supervisee 4 “began crying several times indicating that she had been through a lot” and described prior traumatic experiences. Ex. 31 (MATHIS-LW-CSOSA-026236-237, 026244, 026249, 026251-252, 026254, 026256-258, 026260, 026273) at -026244. Nevertheless, her CSO sanctioned her for missing drug tests and warned that additional missed appointments “could result in her being placed on GPS,” without offering accommodations. *Id.*

Response: Deny the implication that this individual had a disability for which accommodation would be warranted, which is not supported by the record citation.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions in this paragraph. Defendants admit that the CSOSA running record states that “Supervisee 4 has a documented mood disorder, depression, and PTSD, which impact her time management, attendance, and follow-through.” *See supra* ¶ 77. Further, Defendants *themselves produced* Supervisee 4’s records in response to Plaintiffs’ request for “Documents . . . that concern individuals on Supervision identified by the Commission or CSOSA as having a Disability.” Ex. 44 (RFP Responses) at 2-3. The assertion that the CSO offered no accommodations is a concrete fact, not a legal conclusion regarding whether the CSO was *legally required* to provide accommodations.

82. The next month, Supervisee 4’s CSO was unable to contact her, and called Supervisee 4’s mother. *Id.* at -026237. Supervisee 4’s mother stated that Supervisee 4 “was threatening to commit suicide.” *Id.* The CSO documented that Supervisee 4 “appears to remain at the pre-contemplation stage of change due to her mental health issues.” *Id.*

Response: It is unclear which citation to the record Plaintiffs’ are referring to, as “*Id.*” tracks to a string-cite in ¶ 81 and Defendants therefore cannot confirm or deny; Defendants assert

that to the extent the quotes cited by Plaintiff are contained in the documents cited to, those documents are the best record of their contents.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. The “*id.*” in Plaintiffs’ citation refers to Exhibit 31, which is the source cited in ¶ 81. Defendants do not dispute the contents of that record.

83. Just hours after learning that Supervisee 4 had threatened suicide, her CSO filed an AVR citing “all supervision infractions since being placed” on supervision two years earlier, without any mention of Supervisee 4’s mental health crisis. Ex. 23 (Mitchell Rep., Att. 2) at 6; Ex. 31 (MATHIS-LW-CSOSA-026236-237, 026244, 026249, 026251-252, 026254, 026256-258, 026260, 026273) at -026236-37.

Response: This assertion contains Plaintiffs mischaracterization of an AVR, for which there is no citation in the record to confirm that the CSO filed such AVR “just hours after learning that Supervisee had threatened suicide.” The AVR itself is the best evidence of its contents and Defendants therefore direct the Court to the text of that document.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. According to CSOSA’s running record, at 7:08am on August 24, 2018, Supervisee 4’s mother told the CSO that Supervisee 4 “was threatening to commit suicide.” *Id.* at -026237. At 9:48am that same morning, the CSO filed an AVR “for all supervision infractions since being placed in 2016.” *Id.* at -026236.

Supervisee 5 ([REDACTED])

84. Defendants are aware that Supervisee 5 has documented mental health disabilities, including bipolar disorder. Ex. 32, MATHIS-LW-CSOSA-005917-005930, at -005929-30. Additionally, his reading ability is at a third-grade level. *Id.* at -005921.

Response: Deny as the record citations do not support that assertion and because the assertion draws a legal conclusion regarding the classification of “disabilities.”

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. The record citation states that Supervisee 5 is “mental bipolar” and had been receiving “mental health services,” *id.* at -005930, and that he reads “on a 3rd grade level,” *id.* at -005921. Further, this statement contains facts about Supervisee 5’s disabilities as documented by Defendants’ own records, not legal conclusions. Additionally, Defendants *themselves produced* Supervisee 5’s records in response to Plaintiffs’ request for “Documents . . . that concern individuals on Supervision identified by the Commission or CSOSA as having a Disability.” Ex. 44 (RFP Responses) at 2-3. This evidence comes directly from that production.

85. Supervisee 5’s CSO stated that he would look into a program for reading, but there is no evidence that any support was ever provided. *Id.* at -005921-5922.

Response: Admit only that the record citation supports that the CSO stated he would look into a program for reading.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not contest that the record contains no evidence that the CSO ever connected Supervisee 5 with a program for reading.

86. Notwithstanding Supervisee 5’s limited reading comprehension, his CSO continued to rely on text-based communications. Ex. 14 (Mitchell Rep., Att. 2) at 7; *see* Ex. 32 (MATHIS-LW-CSOSA-005917-005930) at -005917-5920.

Response: Admit that the CSO relied on text-based communications. Deny the implication that limited reading comprehension constitutes a disability for which an accommodation is

warranted, or that text-based communications were not sufficient in this context, which is not supported by the record.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that (a) Supervisee 5 had reading limitations and (b) the CSO relied on text-based communications despite those reading limitations. This paragraph asserts a concrete fact—the CSO did not provide an accommodation—not a legal conclusion regarding whether the CSO was *legally required* to provide an accommodation.

Supervisee 6 ([REDACTED])

87. Defendants are aware that Supervisee 6 has been diagnosed with disabilities including ADHD, has a possible intellectual disability, and experiences memory issues. Ex. 33, MATHIS-LW-CSOSA-006192, -006229, -006232, -006236, -006241, at -006241 (ADHD); *id.* at -006232 (“appears to have low intellect”); *id.* at -006229 (“low level intelligence”); *id.* at -006236 (memory issues).

Response: Admit with respect to Defendant CSOSA that CSOSA was aware that Supervisee 6 had self-diagnosed that he suffered from ADHD but deny that the record supports that that condition was a disability or that low level intelligence constitutes a disability. Deny with respect to Defendant USPC, as the record citations do not support that assertion.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that CSOSA was aware that Supervisee 6 had ADHD, “low level intelligence,” and memory issues. Further, Supervisee 6 did not “self-diagnose[]” with ADHD; Defendants’ records document “the offender reported that he was diagnosed with ADHD . . . and is currently connected to [REDACTED] [REDACTED] for services.” Ex. 33 at -006241. Defendants offer no evidence that Supervisee 6 did not have a disability. Moreover, Defendants *themselves produced* Supervisee 6’s records in response to

Plaintiffs’ request for “Documents . . . that concern individuals on Supervision identified by the Commission or CSOSA as having a Disability.” Ex. 44 (RFP Responses) at 2-3. This evidence comes directly from that production.

88. Supervisee 6’s CSO documented that Supervisee 6 “[c]onstantly forgets his appointments.” *Id.* at -006629, -006192.

Response: Admit.

89. Nevertheless, Supervisee 6’s CSO made no accommodations to assist Supervisee 6 with understanding and remembering his supervision requirements such as appointment reminders or simplified instructions. *See id.*

Response: Deny the implication that the record establishes that Supervisee 6 has a disability for which an accommodation was warranted.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants’ records establish that Supervisee 6 had disabilities, and Defendants produced those records in response to Plaintiffs’ request for “Documents . . . that concern individuals on Supervision identified by the Commission or CSOSA as having a Disability.” Ex. 44 (RFP Responses) at 2-3; *see supra* ¶ 87. Defendants do not dispute the fact that Supervisee 6’s CSO provided no accommodations. That the CSO made no accommodations is a concrete fact, not a legal conclusion regarding whether the CSO was *legally required* to provide an accommodation.

90. Supervisee 6’s CSO filed an AVR based on failures to appear and failures to report for drug testing, making no mention of Supervisee 6’s documented disability-related barriers, including his forgetfulness. *See id.* at -006192.

Response: Deny the term “disability-related barriers” which is not supported by the record. Defendants refer to the AVR for a complete and accurate statement of its contents.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that Supervisee 6's CSO filed an AVR for technical violations of failing to appear and failing to report for drug testing, or that the AVR does not mention Supervisee 6's ADHD, low-level intelligence, or forgetfulness.

Supervisee 7 ([REDACTED])

91. Defendants are aware that Supervisee 7 has a documented diagnosis of depression and a history of mental health crises, including suicidal ideation and hospitalization, that make it difficult for him to adhere to his reporting and treatment requirements. Ex. 34, MATHIS-LWCSOSA-033618-20, -033665-671, at -033670.

Response: Defendant CSOSA refers to the citation for a complete and accurate statement of its contents and denies the allegations to the extent inconsistent with the cited document; deny with respect to Defendant USPC, as the record citations do not support that assertion.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that CSOSA was aware that Supervisee 7 has a documented diagnosis of depression and a history of mental health crises, including suicidal ideation and hospitalization, that make it difficult for him to adhere to his reporting and treatment requirements.

92. Supervisee 7 told his CSO that he "has been feeling suicidal and doesn't know ho[w] much more of this he can take" and that "its too much coming at him from everyone." *Id.* at -33671.

Response: Admit.

93. Supervisee 7 also stated that he "had to pick up his medication before he has another mental breakdown." *Id.*

Response: Admit.

94. Supervisee 7's CSO did not make any accommodations despite his mental health crisis; rather, his CSO maintained his regular in-person reporting requirements and "instructed him that if he is not in the hospital he needs to report tomorrow at 9 a.m." *Id.*

Response: Defendants deny the term "mental health crisis," which is not supported by the record citation. Defendants deny that the "CSO did not make any accommodations," because "accommodations" is a legal term and the citation to the record does not support this assertion. Admit that the CSO "instructed him that he is not in the hospital he needs to report tomorrow at 9 a.m.".

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that Supervisee 7 stated he may "have another mental breakdown"; that his CSO "instructed him that if he is not in the hospital he needs to report tomorrow at 9 a.m."; and that his CSO did not make any accommodations. This paragraph asserts a concrete fact—the CSO did not make any accommodations—not a legal conclusion regarding whether the CSO was *legally required* to provide an accommodation.

95. The following day, Supervisee 7 requested a home visit due to his acute mental health crisis; his CSO refused and maintained the in-person reporting requirement. *Id.* at -33670.

Response: Defendants deny that the record citation supports the assertion that Supervisee 7 was experiencing an "acute mental health crisis." Deny that the CSO refused and maintained an "in-person reporting requirement" because that assertion is not supported by the citation to the record.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that Supervisee 7 stated he may "have another mental breakdown." Further, the record shows Supervisee 7 stated "he might be going to a mental health facility[.]" *Id.* With respect to

in-person reporting, Defendants do not dispute that: Supervisee 7 “sent a text message stating he knows he has an appointment this morning but he asked could [the CSO] come by his house instead”; the CSO did not go to Supervisee 7’s house; and the CSO instead “[t]old him to report Monday at 11am” at the CSO’s office. *Id.*

96. Multiple times over the next month, Supervisee 7 told his CSO that “his mental health is still off” and that he “wants a new mental health place because [his current provider] isn’t helping.” *Id.* at -33670, 33665.

Response: Deny that “multiple times over the next month” Supervisee 7 made the assertions described by Plaintiffs. To the extent Plaintiffs cite to notes made by the CSO in the running record, Defendants refer the Court to that document as the best evidence of its contents.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that Supervisee 7 made such assertions on at least three occasions over the following month. *See, e.g., id.* at -33669-33670 (on April 15, 2019, Supervisee 7 “said his mental health is still off”); *id.* at -33669 (on April 22, 2019, Supervisee 7 “called to tell [the CSO] he is [at] the psychiatric ward”); *id.* at -33665 (on May 13, 2019, Supervisee 7 “said he wants a new mental health place because [his current provider] isn’t helping”).

97. Though Supervisee 7’s CSO recognized that “mental health issues are barriers” for him, his CSO simply told him that “he needs to get himself together,” without making any accommodations such as facilitating the intake process or helping him find a mental health provider that fit his needs. *Id.*

Response: Deny the implication in this paragraph that the stated accommodations were warranted, which the record citation does not support. This assertion contains an argument, not an assertion of fact.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not contest the CSO’s statements contained in this paragraph. Further, this paragraph asserts a fact—the CSO did not make any accommodations—not a legal conclusion regarding whether the CSO was *legally required* to make an accommodation.

98. The following month, Supervisee 7’s CSO filed an AVR for failure to report and failure to comply with mental health aftercare. *Id.* at -033618-20.

Response: Deny, as Plaintiffs mischaracterize the contents of the AVR cited; Defendants point the Court to that document, which is the best evidence of its contents.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not contest that the CSO filed an AVR the following month that included allegations for “failed to report to supervision as directed” and “failed to comply with mental health aftercare.” *Id.* at -033618-20. Plaintiffs note that the AVR also included a third allegation for “failed to submit a specimen for substance abuse testing,” which does not alter the Court’s analysis. *Id.*

99. Rather than provide accommodations that would make supervision manageable, his CSO concluded that “[b]ased on his unwillingness to cooperate with supervision he does not present himself as an amenable candidate for continued community supervision at this time.” *Id.*

Response: This assertion is argument not an assertion of fact. Defendants deny the implication in this paragraph that accommodations were warranted to make supervision manageable, which the record citation does not support.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions contained in this paragraph. This paragraph asserts a concrete fact—the CSO did not provide accommodations—not a legal conclusion regarding whether the CSO was *legally required* to provide an accommodation.

Supervisee 8 ([REDACTED])

100. Defendants are aware that Supervisee 8 has an extensive history of mental health disabilities—including schizophrenia, ADHD, depression, psychotic disorder, and personality disorder with antisocial features—along with serious physical injuries, such as a spinal injury and broken bones, that restrict his mobility. Ex. 14 (Mitchell Rep., Att. 2) at 3-5; Ex. 35, MATHISLW-CSOSA-017018-20, -017057-58, -017061, -017081, at -017081 (schizophrenia, ADHD, psychotic disorder, and personality disorder with antisocial features); *id.* at -017061 (depression); *id.* at -017058 (physical injuries).

Response: Admit that the running records cited to note that such conditions were noted by the CSO, but deny to the extent they constitute disabilities within the meaning of the Rehabilitation Act; deny with respect to Defendant USPC, as the record citations do not support that assertion.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that, according to CSOSA's own records, Supervisee 8 has schizophrenia, ADHD, depression, psychotic disorder, and personality disorder with antisocial features—along with serious physical injuries, such as a spinal injury and broken bones, that restrict his mobility. Additionally, Defendants *themselves produced* Supervisee 8's records in response to Plaintiffs' request for "Documents . . . that concern individuals on Supervision identified by the Commission or CSOSA as having a Disability." Ex. 44 (RFP Responses) at 2-3. This evidence comes directly from that production.

101. Supervisee 8's CSO repeatedly recognized his mental health disabilities. For instance, he acknowledged that Supervisee 8's "non-criminogenic risk factors are mental health." Ex. 35 (MATHIS-LW-CSOSA-017018-20, -017057-58, -017061, -017081) at -017057.

Response: Deny that this statement constitutes a recognition of “mental health disabilities” as that is not supported by the record citation.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that their own records state that Supervisee 8 “has a history of chronic long standing mental health concerns” including “a Schizophrenia diagnosis,” Ex. 35 at MATHIS-LW-CSOSA-017019, *id.* at -017081; his “non-criminogenic risk factors” include “mental health” and he was receiving mental health services, *id.* at -017057; he was taking “medication for depression,” *id.* at -017061.

102. Nevertheless, his CSO directed Supervisee 8 to obtain mental health assessments and navigate the treatment system on his own, without providing accommodations to facilitate assessment and access to appropriate treatment. *Id.* at -017061.

Response: Deny the implication that the record citations establish that an accommodation of this nature was warranted based on Supervisee 8’s medical condition; deny the implication that the CSO did not provide reasonable accommodations as that is a legal conclusion, not a factual assertion.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions contained in this paragraph. This paragraph asserts a concrete fact—the CSO did not provide accommodations—not a legal conclusion regarding whether the CSO was *legally required* to provide accommodations.

103. Supervisee 8’s CSO filed an AVR recommending revocation. The AVR recognized Supervisee 8’s “[h]istory of chronic long-standing m[ental] h[earth] concerns” and “history of not taking his psychotropic medication for a Schizophrenia diagnosis.” Ex. 14 (Mitchell Rep., Att. 2) at 4-5; Ex. 35 (MATHIS-LW-CSOSA-017018-20, -017057-58, -017061, -017081) at -017018-20. Nevertheless, the CSO characterized Supervisee 8’s conduct as a “blatant lack of respect for the

rules and regulations of supervised release.” Ex. 14 (Mitchell Rep., Att. 2) at 4-5; Ex. 35 (MATHIS-LW-CSOSA-017018-20, -017057-58, -017061, -017081) at -017018-20.

Response: Deny the implication by the term “Nevertheless” which is argument. Defendants refers the Court to the AVR for a complete and accurate statement of its contents and deny the allegations in this paragraph to the extent inconsistent with the content of the AVR.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that (1) Supervisee 8’s CSO filed an AVR recommending revocation, (2) the AVR recognized Supervisee 8’s mental health history, or (3) that the CSO called Supervisee 8’s conduct a “blatant lack of respect” for supervision rules.

Supervisee 9 ([REDACTED])

104. Defendants are aware that Supervisee 9 has documented mental health disabilities, including depression and mood swings, for which she takes medication and receives mental health treatment. Ex. 36, MATHIS-USPC-00003435-3439, at -00003437 (Commission Dep., Ex. 17); Ex. 4 (Commission Dep.) at 213:9-14.

Response: Admit that Defendants are aware of Supervisee 9’s reported mental health disabilities as they are noted in the running records and that she reported receiving treatment for them but deny insofar as the record citations do not indicate whether any documentation was submitted regarding these disabilities. *See* Ex. 36, MATHIS-USPC-00003435-3439, at -00003437 (Commission Dep., Ex. 17); Ex. 4 (Commission Dep.) at 213:9-14.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. The Commission’s own records show that “[s]he is diagnosed with Depression and Mood Swings”; “takes medication”; and is in “mental health treatment.” Ex. 36 at -00003437. As a matter of law,

Defendants are incorrect that medical documentation was required to substantiate these medical conditions. *See Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7.

105. Supervisee 9’s CSO filed an AVR for solely technical violations, including failure to report. Ex. 36 (MATHIS-USPC-00003435-3439) at -00003435-3436; Ex. 4 (Commission Dep.) at 212:19-213:6.

Response: Deny, while failure to report was one listed violation, numerous others, including failure to submit to drug testing, use of dangerous drugs, failure to comply with GPS monitoring, and violating the law (a charge of simple assault was filed) were all documented by Supervisee’s CSO over the course of her supervision. Defendants’ Statement of Undisputed Material Facts ¶¶ 53-58.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Mr. Vela agreed that the above-referenced violation proceedings concerned “solely administrative [i.e., technical] violations” including, for example, failure to report. Ex. 4 (Commission Dep.) at 212:19-213:6; *see* Ex. 36 MATHIS-USPC-00003435-3436. That revocation proceeding did not concern any alleged law violation. Moreover, the cited portions of Defendants’ SUMF contain no support for the proposition that Supervisee 9 was accused of simple assault. *See* Defs.’ SUMF ¶¶ 53-58. In any event, such assertions would be immaterial to this Court’s decision regarding whether Defendants systematically fail to accommodate supervisees’ disabilities. *See* PI Op., ECF No. 31, at 11-12; Pls.’ Summary Judgment Cross-Op/Reply at 8-14.

106. Supervisee 9’s hearing examiner stated that she is taking her treatment seriously, but that she has “never been able to adhere to the conditions of supervision.” Ex. 36 (MATHISUSPC-000003435-3439) at -00003437; Ex. 4 (Commission Dep.) at 213:15-16.

Response: Admit.

107. Supervisee 9's hearing examiner acknowledged that her struggle to follow supervision conditions "could be" because of her disabilities. Ex 4 (Commission Dep.) at 215:2-6; Ex. 37 (MATHIS-USPC-000003435-3439) at -00003437.

Response: Admit.

108. However, the revocation hearing summary, which would have recorded any accommodations provided, does not list any accommodations. Ex. 36 (MATHIS-USPC-00003435-3439) at -00003435-3438; Ex. 4 (Commission Dep.) at 215:12-21.

Response: Admit that the revocation hearing summary does not list any accommodations.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that Mr. Vela testified that "[i]f there were accommodations made for this individual," "they would have been recorded" on the revocation hearing summary form. Ex. 4 (Commission Dep.) at 215:12-21. As Defendants admit, the revocation hearing summary does not list any accommodations.

109. The hearing examiner ultimately recommended an 8-month sentence. Ex. 36 (MATHIS-USPC-00003435-3439) at -00003437; Ex. 4 (Commission Dep.) at 216:11-18.

Response: Admit.

110. The Commission overrode that recommendation and imposed a 14-month sentence. Ex. 36 (MATHIS-USPC-00003435-3439) at -00003439 (Commission Dep., Ex. 18); Ex. 4 (Commission Dep.) at 217:21-218:1.

Response: Admit.

111. The Commission's decision did not mention any accommodations for Supervisee 9's disabilities. Ex. 4 (Commission Dep.) at 218:5-16.

Response: Admit that the Commission’s decision did not mention any accommodations but deny that the record supports the conclusion that Supervisee 9 had “disabilities”; this assertion is a legal conclusion rather than a fact in the record.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants have admitted that “Defendants are aware of Supervisee 9’s reported mental health disabilities.” *See supra* ¶ 104. Additionally, Defendants *themselves produced* Supervisee 9’s records in response to Plaintiffs’ request for “Documents . . . that concern individuals on Supervision identified by the Commission or CSOSA as having a Disability.” Ex. 44 (RFP Responses) at 2-3.

Supervisee 10 ([REDACTED])

112. Defendants are aware that Supervisee 10 was diagnosed with liver cancer and told he had three to five years to live. He had been in chemotherapy for months. Ex. 37, MATHISUSPC-00009989-91, -00009995, at -00009989; Ex. 4 (Commission Dep.) at 185:19-186:4.

Response: Admit that Defendants are aware of Supervisee 10’s reported medical diagnosis, but deny insofar as the record citations do not indicate that any documentation was submitted regarding these disabilities. *See* Ex. 37, MATHISUSPC-00009989-91, -00009995, at -00009989; Ex. 4 (Commission Dep.) at 185:19-186:4.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants own records state that Supervisee 10 was “diagnosed with liver cancer”; “has 3-5 years to live”; and “[h]as been in chemotherapy for months.” Ex. 37 at -000009989. As a matter of law, Defendants are incorrect that medical documentation was required to substantiate these medical conditions. *See Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7.

113. Supervisee 10's CSO knew about these health issues. Ex. 4 (Commission Dep.) at 186:5-7.

Response: Admit.

114. Yet, his CSO filed an AVR seeking revocation for failure to report. Ex. 37 (MATHIS-USPC-00009989-91, -00009995) at -00009989; Ex. 4 (Commission Dep.) at 185:3-18; 186:5-7.

Response: Admit that the CSO filed an AVR seeking revocation for failure to report but deny the term "Yet" which implies, without record support, that these health issues were the reason for Supervisor 10's failure to report and is an argument, not a factual assertion.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. There is no dispute that (a) Supervisee 10's CSO knew about his health issues and (b) filed an AVR seeking revocation for failure to report.

115. The hearing examiner at the probable cause hearing "obviously" thought that liver cancer and chemotherapy would "have an effect on compliance with supervision conditions." Ex. 4 (Commission Dep.) at 189:1-10.

Response: Admit.

116. The hearing examiner considered Supervisee 10's "health and disability" and "recommended release." *Id.* at 189:22-190:6; Ex. 37 (MATHIS-USPC-00009989-91, -00009995) at -00009989.

Response: Admit.

117. The Commission rejected this recommendation and instead ordered Supervisee 10 incarcerated pending a final revocation hearing. Ex. 37 (MATHIS-USPC-00009989-91, -00009995) at -00009995; Ex. 4 (Commission Dep.) at 191:2-8.

Response: Admit.

118. The Commission did not mention his disability. Ex. 4 (Commission Dep.) at 191:2-19.

Response: Admit that his medical condition was not mentioned.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that, when asked, "Did the Commission mention [Supervisee 10's] disability on this notice of action form?" Mr. Vela responded, "No." Ex. 4 at 191:9-11.

119. After Supervisee 10 spent about two months in jail, the Commission reinstated him to supervision, absent any accommodations. Ex. 37 (MATHIS-USPC-00009989-91, -00009995) at - 00009995.

Response: Admit.

Mr. Kennedy Davis

120. Mr. Davis has disabilities including chronic pain and mobility limitations stemming from third-degree burns and mental health conditions including depression, anxiety, and PTSD. *See supra* ¶¶ 31-33.

Response: The allegations in this paragraph are immaterial because the record citation fails to establish that this medical condition was documented to Defendants during the relevant time period or that Defendants were on notice of it. In addition, self-diagnosis does not constitute competent evidence at summary judgment to establish the existence, extent or inception of a medical condition or whether and to what extent it limits a major life activity.

Plaintiffs' Reply: Defendants do not dispute the facts asserted in this paragraph. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Further, Defendants' own records

substantiate their awareness of Mr. Davis's disabilities. *See infra* ¶¶ 122-26 (CSOSA knowledge of Mr. Davis's mental health needs); ¶¶ 127-28 (CSOSA knowledge of Mr. Davis's multiple scheduled surgeries and mobility limitations); ¶ 129 (Commission knowledge Mr. Davis needed treatment for his burns); ¶ 130 (Commission knowledge of Mr. Davis's mental health needs). Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that more evidence is needed to substantiate these disabilities, *See Katz*, 87 F.3d at 32; Pls.' Summary Judgment Cross-Op/Reply at 6-7, or that Mr. Davis must establish that Defendants were on notice of his disabilities, Pls.' Summary Judgment Cross-Op/Reply at 19-21.

121. Supervision records reflect that Defendants were aware that Mr. Davis has disabilities. Ex. 38, MATHIS-LW-CSOSA-094538, -094630, -094632, -094639-40, -094652, -094688-711, at -094652, -094632.

Response: Deny that the information available to CSOSA amounted to knowledge that Mr. Davis "has disabilities;" deny with respect to Defendant USPC, as the record citations do not support that assertion.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. As further admitted *infra* ¶¶ 122-28, the cited records show CSOSA's knowledge that Mr. Davis had disabilities, including "mental health needs"; mobility limitations that required him to be "on crutches"; and multiple surgeries. Further, cited records show that USPC had knowledge of Mr. Davis's physical and mental disabilities. *See infra* ¶¶ 129-30.

122. In a March 9, 2017 AVR, CSOSA acknowledged that Mr. Davis's "criminogenic/non-criminogenic risk factors" included his "mental health needs," and that Mr.

Davis was “currently connected with MBI Health Services where he is currently receiving mental health . . . services.” *Id.* at -094630, -094632.

Response: Admit.

123. In a December 10, 2019 AVR, CSOSA acknowledged that Mr. Davis was “connected to MBI for mental health services.” *Id.* at -094640.

Response: Admit.

124. CSOSA acknowledged that Mr. Davis’s CSO was “working with his community support worker in an attempt to place [Mr. Davis] in a suitable program that will address his dual diagnoses.” *Id.*

Response: Admit.

125. In a September 1, 2020 AVR, CSOSA stated that Mr. Davis’s “mental health” issues created a “barrie[r] to change.” *Id.* at -094652.

Response: Admit.

126. In a January 14, 2022 AVR, CSOSA again stated that Mr. Davis’s “mental health” was a “barrier to change.” *Id.* at -094538.

Response: Admit.

127. On January 26, 2023, his CSO noted that he was “on crutches.” *Id.* at -094710-11.

Response: Admit.

128. Multiple times during March and April of 2023, Mr. Davis’s CSOs noted that he had scheduled surgeries at the Washington Hospital Center. *Id.* at -094704-05, -094707.

Response: Admit.

129. The Commission was aware that Mr. Davis needed treatment for his burns no later than April 2022, when Mr. Davis’s counsel discussed his need for treatment during his revocation

hearing. Ex. 39, Defendants’ Objections and Responses to Plaintiffs’ First Set of Requests for Admission (Apr. 30, 2025), at 2.

Response: Admit.

130. The Commission was aware that Mr. Davis had mental health disabilities no later than his October 2023 revocation hearing, when Mr. Davis’s mental health provider from University Legal Services (“ULS”) testified at his hearing. Ex. 11 (K. Davis. Decl.) ¶ 42; Ex. 12 (Seltzer Decl.) ¶ 19.

Response: Deny that the testimony at Mr. Davis’s October 2023 revocation hearing was sufficient to establish that he had diagnosed mental health disabilities. *See* USPC-MATHIS-00006746-47 (with the witness from ULS testifying simply that her program “typically monitors persons with mental health issues at the DC Jail, CTF, and places like St. Elizabeth’s hospital” and also “provides help with release services, including making treatment and program connections, housing assistance, and other services” and that Mr. Davis had reached out to the program in September 2022 “for help to get reconnected to services”).

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. As Defendants acknowledge, ULS works with “persons with mental health issues.” *Id.*

131. At the time Defendants created and imposed Mr. Davis’s conditions of supervision, they did not assess whether he might need reasonable accommodations to have an equal opportunity to succeed on supervision. Ex. 1 (Answer) ¶¶ 152, 105.

Response: Admit.

132. At the time Defendants submitted their Answer, they had no record of ever asking Mr. Davis whether his disabilities make it harder to follow his supervision rules or if he needs

reasonable accommodations or of advising him of his right to reasonable accommodations. *Id.* ¶ 105.

Response: Admit.

133. As a condition of his parole, Mr. Davis was required to report to the supervision office and get drug tested in-person twice a week. Ex. 11 (K. Davis Decl.) ¶¶ 30-32; Ex. 1 (Answer) ¶ 99.

Response: Admit.

134. Following his surgery for his third-degree burns, Mr. Davis had to use a wheelchair, crutches, and then a walker to move around—which made it harder, and more time-intensive, to get to his supervision appointments. Ex. 11 (K. Davis Decl.) ¶¶ 17, 21.

Response: The allegations in this paragraph are immaterial because the record citation fails to establish that this medical condition was documented to Defendants during the relevant time period or that Defendants were on notice of it. In addition, self-diagnosis does not constitute competent evidence at summary judgment to establish the existence, extent or inception of a medical condition or whether and to what extent it limits a major life activity.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute the assertions in the above paragraph. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that medical documentation was required to substantiate these medical conditions, *see Katz*, 87 F.3d at 32; Pls.' Summary Judgment Cross-Op/Reply at 6-7, and that advance notice of his accommodation needs was required, *see Pls.' Summary Judgment Cross-Op/Reply* at 19-21.

135. While receiving treatment for his burns, Mr. Davis left the hospital against his doctor's orders to meet with his CSO because Defendants failed to offer alternative arrangements. *Id.* ¶ 5.

Response: The record citation does not support whether the CSO had knowledge of Mr. Davis's situation at that time.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions in the above paragraph. Moreover, as a matter of law, advance knowledge was not required. *See* Pls.' Summary Judgment Cross-Op/Reply at 19-21.

136. Nearly all of Mr. Davis's CSOs failed to adjust his supervision conditions in response to his mobility needs. *Id.* ¶ 26.

Response: The record citation does not establish that Mr. Davis's mobility needs required an adjustment to his supervision conditions.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not contest the fact that nearly all of Mr. Davis's CSOs did not adjust his supervision conditions in response to his mobility needs. This paragraph asserts a concrete fact, not a legal conclusion regarding whether the CSOs were *legally required* to provide adjustments to his supervision conditions.

137. Mr. Davis's anxiety, depression, and PTSD make it overwhelming to track and attend his supervision requirements. *Id.* ¶¶ 7, 12.

Response: The allegations in this paragraph are immaterial because the record citation fails to establish that this medical condition was documented to Defendants during the relevant time period or that Defendants were on notice of it. In addition, self-diagnosis does not constitute

competent evidence at summary judgment to establish the existence, extent or inception of a medical condition or whether and to what extent it limits a major life activity.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not contest the factual assertions in the above paragraph. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that medical documentation was required to substantiate these medical conditions, *see Katz*, 87 F.3d at 32; Pls.' Summary Judgment Cross-Op/Reply at 6-7, and that advance notice was required, *see Pls.' Summary Judgment Cross-Op/Reply* at 19-21.

138. Mr. Davis has to take medications for his mental health that make him tired and nauseous, and cause slurred speech and headaches, making it harder to track and attend appointments. *Id.* ¶ 23.

Response: The allegations in this paragraph are immaterial because the record citation fails to establish that this medical condition was documented to Defendants during the relevant time period or that Defendants were on notice of it. In addition, self-diagnosis does not constitute competent evidence at summary judgment to establish the existence, extent or inception of a medical condition or whether and to what extent it limits a major life activity.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not contest the factual assertions in the above paragraph. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that medical documentation was required to

substantiate these medical conditions, *see Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7, and that advance notice was required, *see Pls.’ Summary Judgment Cross-Op/Reply* at 19-21.

139. In July 2023, Mr. Davis was required to report to his CSO by phone, but he did not have a working phone. *Id.* ¶¶ 33-34.

Response: Admit that this is the information Mr. Davis eventually provided to Defendants.

140. Mr. Davis was “very anxious and scared” about the fact that he could not meet this requirement. *Id.* ¶ 35.

Response: The allegations in this paragraph are immaterial because there is no evidence that this information was conveyed or documented to Defendants during the relevant time period.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not contest the factual assertions in the above paragraph. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that documentation was required, *see Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7, and that advance notice was required, *see Pls.’ Summary Judgment Cross-Op/Reply* at 19-21.

141. Mr. Davis’s mental health conditions make it difficult for him to trust new people and ask for help. *Id.* ¶ 36; Ex. 12 (Seltzer Decl.) ¶¶ 10-14.

Response: The allegations in this paragraph are immaterial because there is no evidence that this information was conveyed or documented to Defendants during the relevant time period.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*,

786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not contest the factual assertions in the above paragraph. As a matter of law, Defendants are incorrect that documentation was required, *see Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7, and that advance notice was required, *see Pls.’ Summary Judgment Cross-Op/Reply* at 19-21.

142. Due to his anxiety and PTSD, Mr. Davis experienced “tunnel vision,” meaning he focused exclusively on one solution—contacting his mental health advocate at ULS for help. Ex. 12 (Seltzer Decl.) ¶ 15. When that did not work, he was not able to consider an alternative solution. Ex. 11 (K. Davis. Decl.) ¶ 35; Ex. 11 (Seltzer Decl.) ¶¶ 13-15.

Response: The allegations in this paragraph are immaterial because there is no evidence that this information was conveyed or documented to Defendants during the relevant time period.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not contest the factual assertions in the above paragraph. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that documentation was required, *see Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7, and that advance notice was required, *see Pls.’ Summary Judgment Cross-Op/Reply* at 19-21.

143. After eleven days without Mr. Davis contacting his CSO, his CSO submitted an AVR, seeking Mr. Davis’s arrest for failing to contact his CSO via phone. Ex. 1 (Answer) ¶ 111.

Response: Admit.

144. His CSO pursued revocation for this reporting violation even though, during that same period, Mr. Davis was reporting for drug testing on all required occasions and tested negative each time. *Id.*

Response: Admit.

145. Mr. Davis was arrested for this technical reporting violation on August 3, 2023, and spent two months in jail before his revocation hearing. *Id.* ¶ 112.

Response: Admit.

146. While in jail, Mr. Davis could not receive the medical treatment he needed for his burns, including a surgery that had been scheduled for August 8, 2023. *Id.* ¶ 113.

Response: The allegations in this paragraph are immaterial because there is no evidence that this information was conveyed or documented to Defendants during the relevant time period.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not contest the factual assertions in the above paragraph. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that documentation was required, *see Katz*, 87 F.3d at 32; Pls.' Summary Judgment Cross-Op/Reply at 6-7, and that advance notice was required, *see Pls.' Summary Judgment Cross-Op/Reply* at 19-21.

147. At Mr. Davis's revocation hearing on October 4, 2023, ULS explained how Mr. Davis had continued to try to follow his supervision rules, including attending all of his drug testing appointments and repeatedly contacting ULS for help so he could call his CSO. Ex. 12 (K, Davis Decl.) ¶ 42.

Response: Admit that these were assertions made at the hearing.

148. The hearing examiner recommended that Mr. Davis serve a 5-month sentence. *Id.* ¶ 43.

Response: Admit.

149. The Commission overrode this recommendation and imposed a 12-month sentence. *Id.* ¶¶ 44-45.

Response: Admit.

150. Incarceration worsened Mr. Davis's mental health. *Id.* ¶ 50.

Response: Plaintiff's self-diagnosis does not constitute competent evidence at summary judgment to establish the existence, extent or inception of a medical condition or whether and to what extent it limits a major life activity.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not contest the factual assertions in the above paragraph. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that more evidence was needed to substantiate Mr. Davis's worsened mental health. *See Katz*, 87 F.3d at 32; Pls.' Summary Judgment Cross-Op/Reply at 6-7.

151. In prison, Mr. Davis could not obtain the needed treatment for his burns, or the surgery that he needed. *Id.* ¶ 48.

Response: The allegations in this paragraph are immaterial because there is no evidence that this information was conveyed or documented to Defendants during the relevant time period.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not contest the factual assertions in the above paragraph. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that documentation was required, *see Katz*, 87

F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7, and that advance notice was required, *see* Pls.’ Summary Judgment Cross-Op/Reply at 19-21.

Mr. William Mathis

152. Before he passed away in 2024, former named plaintiff William Mathis, a then-70-year-old military veteran, was serving lifetime parole. **Ex. 40**, Declaration of William Mathis in Support of Prelim. Inj., ¶¶ 1-3 (ECF No. 3-2).

Response: Admit.

153. Mr. Mathis had congestive heart failure, which left him dizzy and short of breath, and required him to use a walker whenever he left the house. *Id.* ¶¶ 4, 6-8. This made it difficult for Mr. Mathis to move around the city to get to his supervision appointments each week. *Id.*

Response: The record citation does not establish that this information was conveyed or documented to Defendants. *See also United States v. Mason*, 951 F.3d 567, 574 (D.C. Cir. 2020) (out of court statement of deceased declarant is hearsay).

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not contest the factual assertions in the above paragraph. Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that documentation was required, *see Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7, and that advance notice was required, *see* Pls.’ Summary Judgment Cross-Op/Reply at 19-21. Further, the statement is admissible under Fed. R. Evid. 807 because it has sufficient guarantees of trustworthiness, is more probative than any other reasonably obtainable evidence, and Defendants had reasonable notice. *See Ali v. Rubio*, No. 1:22-CV-02786, 2025 WL 901287, at *3 (D.D.C. Jan. 24, 2025); Pls.’ Summary Judgment Cross-Op/Reply at 16 n.4.

154. His supervision appointments were often “on the same day” as his medical appointments and hospitalizations for his health condition at the Veterans Affairs (“VA”) hospital—a problem that made it “difficult for [him] to manage [his] supervision appointments” and that he flagged for his CSO numerous times. *Id.* ¶¶ 9-10, 12. However, his CSO “never offered to change [his] appointment dates” or provide any other accommodation. *Id.* ¶¶ 9-12.

Response: The allegations in this paragraph are immaterial because the record citation fails to establish that this medical condition was documented to Defendants during the relevant time period or that Defendants were on notice of it. In addition, self-diagnosis does not constitute competent evidence at summary judgment to establish the existence, extent or inception of a medical condition or whether and to what extent it limits a major life activity. *See also United States v. Mason*, 951 F.3d 567, 574 (D.C. Cir. 2020) (out of court statement of deceased declarant is hearsay).

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not contest the factual assertions in the above paragraph. Further, *Defendants’ own* records that *Defendants themselves* submitted with their summary judgment papers confirm that they knew that Mr. Mathis’s hospitalizations conflicted with his supervision appointments. Defs.’ Ex. 31 at 4 (probable cause hearing digest stating, “Counsel notes the subject has been in/out of the hospital during the month of December due to serious medical issues. On 12/28/2023 – was at the hospital doing testing all day . . . which is why he did not report on 12/28/2023 . . . [Mr. Mathis] said he constantly reports, but also has medical issues that need his attention.”). Further, Defendants’ own records confirm that Mr. Mathis “showed the [Hearing] Examiner medical documentation verifying his medical

appointments.” *Id.* Rather, Defendants dispute the legal significance of undisputed facts. As a matter of law, Defendants are incorrect that documentation was required, *see Katz*, 87 F.3d at 32; Pls.’ Summary Judgment Cross-Op/Reply at 6-7, and that advance notice was required, *see Pls.’ Summary Judgment Cross-Op/Reply* at 19-21. Further, the statement is admissible under Fed. R. Evid. 807 because it has sufficient guarantees of trustworthiness, is more probative than any other reasonably obtainable evidence, and Defendants had reasonable notice. *See Ali*, 2025 WL 901287, at *3; Plaintiffs’ Summary Judgment Opposition Brief/Reply at 16 n.4.

155. In December 2023, CSOSA added a GPS monitoring condition to Mr. Mathis’s parole. *Id.* ¶ 13.

Response: Admit.

156. Mr. Mathis informed his CSO that the GPS monitor was “dangerous for [his] health” because the device would restrict blood flow and cause swelling. *Id.* ¶¶ 15, 17.

Response: The record citation does not establish that Mr. Mathis was competent to offer this medical opinion. *See also United States v. Mason*, 951 F.3d 567, 574 (D.C. Cir. 2020) (out of court statement of deceased declarant is hearsay).

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not contest the factual assertions in the above paragraph. The paragraph asserts a concrete fact, not a conclusive medical opinion. Further, the statement is admissible under Fed. R. Evid. 807 because it has sufficient guarantees of trustworthiness, is more probative than any other reasonably obtainable evidence, and Defendants had reasonable notice. *See Ali*, 2025 WL 901287, at *3; Plaintiffs’ Summary Judgment Opposition Brief/Reply at 16 n.4.

157. Having received no accommodation, Mr. Mathis chose to wear the GPS monitor rather than risk violating his parole by removing it. *Id.* ¶¶ 17-18.

Response: The record citation does not establish a basis for providing an accommodation for the GPS monitor. *See also United States v. Mason*, 951 F.3d 567, 574 (D.C. Cir. 2020) (out of court statement of deceased declarant is hearsay).

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not contest the factual assertions in the above paragraph. This paragraph asserts a concrete fact—Mr. Mathis received no accommodation—not a legal conclusion regarding whether an accommodation was *legally required*. Further, the statement is admissible under Fed. R. Evid. 807 because it has sufficient guarantees of trustworthiness, is more probative than any other reasonably obtainable evidence, and Defendants had reasonable notice. *See Ali*, 2025 WL 901287, at *3; Plaintiffs' Summary Judgment Opposition Brief/Reply at 16 n.4.

158. The monitor caused his ankle to swell and made it even harder to walk. *Id.* ¶¶ 15-16.

Response: The record citation does not establish that Mr. Mathis was competent to offer this medical opinion. *See also United States v. Mason*, 951 F.3d 567, 574 (D.C. Cir. 2020) (out of court statement of deceased declarant is hearsay).

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not offer any evidence contesting the assertions in the above paragraph. The paragraph asserts a fact based on Mr. Mathis's own firsthand observations about his own body, not a conclusive medical opinion. Further, the statement is admissible under Fed. R. Evid. 807 because it has sufficient guarantees of trustworthiness, is more probative than any other reasonably obtainable evidence, and Defendants had reasonable notice. *See Ali*, 2025 WL 901287, at *3; Plaintiffs' Summary Judgment Opposition Brief/Reply at 16 n.4.

159. In January 2024, Defendants incarcerated Mr. Mathis for technical parole violations, including for failing to report to his CSO. *Id.* ¶ 26.

Response: Admit.

160. On three of the four days Mr. Mathis was accused of missing appointments, he was at the VA hospital being treated for heart failure. *Id.* ¶ 27.

Response: *See United States v. Mason*, 951 F.3d 567, 574 (D.C. Cir. 2020) (out of court statement of deceased declarant is hearsay).

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions in the above paragraph. Further, records submitted *by Defendants*, including Defendants' *own records*, confirm that Mr. Mathis was hospitalized at times he was accused of not reporting. *See* Defs.' Ex. 31 at 4; Defs.' Ex. 33 at 1. Additionally, the statement is admissible under Fed. R. Evid. 807 because it has sufficient guarantees of trustworthiness, is more probative than any other reasonably obtainable evidence, and Defendants had reasonable notice. *See Ali*, 2025 WL 901287, at *3; Plaintiffs' Summary Judgment Opposition Brief/Reply at 16 n.4.

161. Mr. Mathis stayed in regular contact with his CSO throughout his period—reporting to supervision on five other occasions and wearing his GPS monitor as required. *Id.* ¶¶ 28-29.

Response: *See United States v. Mason*, 951 F.3d 567, 574 (D.C. Cir. 2020) (out of court statement of deceased declarant is hearsay).

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions in the above paragraph. Further, records submitted *by Defendants*, including Defendants' *own records*, confirm that Mr. Mathis remained in contact with his CSO during this period, including reporting to supervision on multiple occasions. *See* Defs.' Ex. 31 at 4; Defs.' Ex. 33 at 1. The statement is admissible under Fed. R. Evid. 807 because it has sufficient

guarantees of trustworthiness, is more probative than any other reasonably obtainable evidence, and Defendants had reasonable notice. *See Ali*, 2025 WL 901287, at *3; Plaintiffs' Summary Judgment Opposition Brief/Reply at 16 n.4.

162. When Mr. Mathis reported to his CSO's office on January 22, 2024, he was arrested for technical parole violations and put in jail. *Id.* ¶ 30.

Response: Admit.

163. Mr. Mathis's incarceration forced him to miss a previously-scheduled medical appointment—that Defendants knew about—to get a defibrillator that would have treated his congestive heart failure. *Id.* ¶¶ 33-35.

Response: Admit.

164. Even though the hearing examiner at his probable cause hearing agreed he should be released for this important medical procedure, the Commission rejected this recommendation and kept him incarcerated. *Id.* ¶¶ 34-35.

Response: Admit.

165. A few days later, Defendants released Mr. Mathis back to parole on substantially the same conditions that his known disability made it hard to follow in the first place, without any accommodations. *Id.* ¶ 37.

Response: *See United States v. Mason*, 951 F.3d 567, 574 (D.C. Cir. 2020) (out of court statement of deceased declarant is hearsay).

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions in the above paragraph. The statement is admissible under Fed. R. Evid. 807 because it has sufficient guarantees of trustworthiness, is more probative than any other

reasonably obtainable evidence, and Defendants had reasonable notice. *See Ali*, 2025 WL 901287, at *3; Plaintiffs' Summary Judgment Opposition Brief/Reply at 16 n.4.

166. In June 2024, Mr. Mathis passed away. Ex. 41, Plaintiffs' Notice of Death and Voluntary Dismissal of Claim (ECF No. 34).

Response: Admit.

Other Supervisees Represented By The D.C. Public Defender Service

167. One individual represented by the D.C. Public Defender Service had paranoid schizophrenia, which made him afraid to leave his house and hindered his ability to report for required supervision meetings. Ex. 18 (Edmondson Decl.) ¶ 34.

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs' Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender's Parole Division as evidence.

168. While the individual's CSO and the Commission were aware of the individual's disability, they never provided any accommodations. *Id.*

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs' Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to

disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender's Parole Division as evidence.

169. Instead, Defendants incarcerated him for technical violations, and then reinstated him under "the very same requirements that his disability made it difficult for him to comply with." *Id.*

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs' Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender's Parole Division as evidence.

170. Another individual on parole had extreme nerve pain in his back that left his legs numb for long periods and made it difficult to walk. *Id.* ¶ 35. Even after he told his CSO about his mobility limitations, his CSO required him to attend multiple monthly supervision appointments far from his home. *Id.*

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs' Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender's Parole Division as evidence.

171. His CSO did not provide accommodations. Instead, Defendants “increased the number and frequency of his supervision conditions even though his parole ha[d] not been revoked for over five years.” *Id.*

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs’ Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender’s Parole Division as evidence.

172. Following back surgery—which led to continued leg numbness and back pain—the Commission arrested him for alleged technical violations. *Id.* The Commission held him at the D.C. Jail for nearly three months before releasing him to continued supervision without any accommodations. *Id.*

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs’ Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender’s Parole Division as evidence.

173. Another D.C. Public Defender Service client had paralysis that left him in a wheelchair, making it difficult to travel to supervision appointments. *Id.* ¶ 36.

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs' Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender's Parole Division as evidence.

174. The Commission and CSOSA were aware of his disability-related mobility limitations, but never offered any accommodations. *Id.*

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs' Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender's Parole Division as evidence.

175. Instead, Defendants incarcerated him twice for technical supervision violations, including failing to attend in-person appointments. *Id.*

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs' Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to

disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender's Parole Division as evidence.

176. During his first revocation hearing, a hearing examiner "explicitly acknowledged that he was medically unable to comply with supervision." *Id.* ¶¶ 36-37.

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs' Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender's Parole Division as evidence.

177. Nonetheless, the Commission detained him in the D.C. Jail for multiple weeks, and then reimposed the same conditions he had been found medically unable to comply with. *Id.* ¶ 37.

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs' Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender's Parole Division as evidence.

178. When he was subsequently arrested for failing to meet those very same conditions, the Commission detained him for over a month, putting him at risk of losing his housing. *Id.*

Response: Objection. Because Plaintiffs fail to identify the individual at issue in this paragraph, Defendants lack a sufficient factual basis to admit or deny the allegations in this paragraph.

Plaintiffs' Reply: Due to the sensitive and confidential medical information contained in this example and the fact that Plaintiffs have not obtained permission from this individual to disclose their name, Plaintiffs rely on a sworn declaration from the former chief of the Public Defender's Parole Division as evidence.

Lack of System to Ensure People Reliably and Consistently Receive Needed Accommodations

179. As Plaintiffs' expert explained, to ensure people reliably and consistently receive needed accommodations, supervision agencies should have: (1) written policies and procedures regarding accommodations, (2) a system to identify individuals with disabilities and their accommodation needs, (3) notice of rights to accommodations, (4) a system to request accommodations, (5) a system for grieving failures to accommodate, (6) a designated accommodation coordinator, (7) staff training on assessing accommodation needs and providing accommodations, and (8) a system to track and monitor accommodations. Ex. 14 (Mitchell Rep.) at 8.

Response: The assertion is the opinion of Plaintiffs' expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that agencies should have these features to ensure people reliably and consistently receive needed accommodations. Notably, Defendants did not submit their own expert or challenge Ms. Mitchell's factual assertions on this point. This paragraph relies on Ms. Mitchell's report for

industry practices, not for an instruction on the law. *See* Fed. R. Evid. 702 (expert may testify regarding “specialized knowledge that will help the trier of fact”). Moreover, Rule 56 permits reliance on report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

180. Defendants “do not have any of the key features of a system to provide reasonable accommodations in a systematic and consistent manner.” *Id.*

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that they lack the above-referenced features of a system to provide reasonable accommodations. *See infra* ¶¶190-94 (no written policies); ¶¶201-16 (no system to identify disabilities and accommodation needs); ¶¶219-22 (no notice); ¶¶225-30 (no formal request process); ¶ 233 (no formal grievance process); ¶ 236 (no designated accommodations coordinator); ¶¶ 241-45 (no training on disabilities/accommodations); ¶¶ 248-68 (no tracking or monitoring). This paragraph relies on Ms. Mitchell’s report for her factual observations based on her review of Defendants’ own records and for industry practices, not for an instruction on the law. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

181. The Commission has “no formal, official, or standardized system or process for providing reasonable accommodations to individuals with Disabilities on Supervision.” Ex. 42, Defendants’ Responses and Objections to Plaintiffs’ First Set of Interrogatories (May 12, 2025), at 5.

Response: Admit. However, the full context is: “While the Commission has no formal, official, or standardized system or process for providing reasonable accommodations to individuals with Disabilities on Supervision, it does provide reasonable accommodations where appropriate to individuals with Disabilities on Supervision. One such example is reinstating an individual with a Supervision violation to Supervision rather than imposing prison time for the violation where the individual alleges that the violation was caused by a Disability. Another example is that, where an individual raises a Disability-related issue with his or her ability to comply with a general or special condition of Supervision, the Commission assesses whether a reasonable accommodation is required and, if so, provides it by modifying the condition at issue. Where the Disability-related issue an individual raises lies with his or her ability to comply with the requirements of Supervision imposed by CSOSA, the Commission cannot unilaterally modify those conditions.” *Id.*

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants’ additional context does not concern formal, official, or standardized systems or processes. Further, Plaintiffs deny that Defendants provide reasonable accommodations where appropriate on a systemic, reliable, or consistent basis. *See* Pls.’ Resp. to Defs.’ SUMF ¶¶ 109-10.

182. CSOSA has “no guidance on providing people with reasonable accommodations.” Ex. 43, September 5, 2023 letter from CSOSA to Ashika Verriest, regarding FOIA Request, at 1-2 (ECF 40-11).

Response: Deny, the assertion is not supported by the record citation. The letter cited states that an exhaustive search, conducted by CSOSA, under the Freedom of Information Act (“FOIA”) “yielded no guidance/instruction/etc.” *Id.* at 2.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that “an exhaustive search” of CSOSA’s policies dating back nine years “yielded no guidance/instruction/etc.” regarding “providing people with reasonable accommodations.” *Id.*; Ex. 1 (Answer) ¶ 43; *see also* Ex. 3 (CSOSA Dep.) at 80:20-82:12.

Lack of Written Policies and Procedures Regarding Accommodations

183. As Plaintiffs’ expert explained, absent written policies regarding accommodations, “officers lack a clear understanding of when and how to identify accommodation needs, respond to requests, or recognize potential barriers during the supervision and revocation process.” Ex. 14 (Mitchell Rep.) at 16. Further, “[i]n the absence of written standards, practices may vary widely from officer to officer, resulting in unequal treatment of individuals with disabilities and increasing the likelihood that people will not receive accommodations.” *Id.* Written policies and procedures also “make it possible to evaluate whether the agency is meeting its obligations” under the Rehabilitation Act “and to correct problems when they are not.” *Id.* And, crucially, written policies “are necessary for the system to function at scale.” *Id.* Without written procedures, it is “exceedingly difficult—if not impossible—for a supervision agency to meet its accommodation obligations,” and “any efforts to accommodate individuals with disabilities remain ad hoc and unsustainable.” *Id.* Thus, “[a] functioning, durable system requires formalized rules that all staff can follow and apply consistently.” *Id.*

Response: The assertion is the opinion of Plaintiffs' expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the importance of written policies. Indeed, Defendants themselves recognize the importance of written policies, *see infra* ¶¶ 184-189, and assert they are "in the process of formalizing guidance on reasonable accommodations," Defs.' SUMF ¶ 96; *see also id.* ¶¶ 98, 102, 111. This paragraph relies on Ms. Mitchell's report for industry practices and factual observations based on her experience, not for an instruction on the law. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

184. Defendants recognize the importance of written policies and procedures. Ex. 3 (CSOSA Dep.) at 71:18-72:20; Ex. 4 (Commission Dep.) at 70:21-72:10.

Response: The assertion is immaterial and thus no response is required. To the extent any response is required, Defendants deny that the assertion is supported by the record.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. The importance of written policies and procedures is material because Plaintiffs contend that Defendants' failure to have written policies and procedures regarding disabilities contributes to Defendants' failure to consistently and reliably accommodate supervisees in practice. Defendants recognize the importance of written policies and

procedures to ensure consistency and accountability, *see infra* ¶¶ 184-89, yet have no written policies or procedures regarding disabilities, *see id.* ¶¶ 190-94.

185. CSOSA uses written policies and procedures “to ensure consistency and accountability.” Ex. 3 (CSOSA Dep.) at 71:18-2.

Response: Admit.

186. Accountability means that supervisees, CSOs, supervisory CSOs, and anyone else covered by particular guidance does the things “laid out for them.” *Id.* at 71:18-72:6.

Response: The assertion is immaterial and thus no response is required. To the extent a response is required, the contents of the deposition cited are the best evidence of its contents.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute that Ms. Forsha attested that “accountability” means that “the supervisee,” “the CSOs performing work as well as the SCSOs [supervisory CSOs], anyone that’s covered under that particular guidance, there would be accountability for them to do the things that are laid out for them.” *Id.* This statement is material because Plaintiffs contend that Defendants’ failure to have written policies and procedures regarding disabilities contributes to Defendants’ failure to reliably and consistently accommodate supervisees.

187. Consistency means “application” of “[t]he agency’s expectations” for CSOs is “consistent regardless of which CSO is applying the [] guidance.” *Id.* at 71:18-72:16.

Response: The assertion is immaterial and thus no response is required. To the extent a response is required, the contents of the deposition cited are the best evidence of its contents.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute that Ms. Forsha attested that “consistency” means “[t]he agency’s expectation on what each – each person should be doing, so here’s what we expect the CSOs to do or here’s what we expect the supervisees to do so that it’s consistent regardless of which CSO is applying the – the guidance.” *Id.* This statement is material because Plaintiffs contend that Defendants’ failure to have written policies and procedures regarding disabilities contributes to Defendants’ failure to reliably and consistently accommodate supervisees.

188. CSOSA also uses written policies and procedures “to ensure that CSOs are aware of their responsibilities.” *Id.* at 71:18-72:20.

Response: The assertion is immaterial and thus no response is required. To the extent a response is required, the contents of the deposition cited are the best evidence of its contents.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute that, when asked, “Is it also fair to say that it’s [i.e., having written policies and procedures is] because you want to ensure that CSOs are aware of their responsibilities?” Ms. Forsha responded, “Yes.” *Id.* This statement is material because Plaintiffs contend that Defendants’ failure to have written policies and procedures regarding disabilities contributes to Defendants’ failure to reliably and consistently accommodate supervisees.

189. The Commission uses written policies and procedures “to ensure that everybody’s treated the same in a fair and just manner, individuals are addressed the same”; “to ensure that

hearing examiners and commissioners are acting consistently so that similarly situated supervisees are treated similarly”; “to memorialize those policy procedures in writing”; “to ensure that hearing examiners and commissioners are aware of the responsibilities”; “to ensure that staff are aware of the steps they must take in particular scenarios”; and “to ensure that policies are memorialized and outlast changes in personnel.” Ex. 4 (Commission Dep.) at 70:21-72:10.

Response: The assertion is immaterial and thus no response is required. To the extent a response is required, the contents of the deposition cited are the best evidence of its contents.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute that Mr. Vela agreed to the above-mentioned purposes of having written policies and procedures. *Id.* This statement is material because Plaintiffs contend that Defendants’ failure to have written policies and procedures regarding disabilities contributes to Defendants’ failure to reliably and consistently accommodate supervisees.

190. Nevertheless, Defendants admit that they “have not put in place any guidance, instructions, or policies” regarding disabilities—including guidance/instructions/policies “requiring assessing people’s disability-related accommodation needs when initially setting supervision requirements, requiring provision of reasonable accommodations for people’s disabilities as they become known, or providing a means by which people with disabilities can request reasonable accommodations.” Ex. 1 (Answer) ¶ 150; *id.* ¶¶ 42-44.

Response: Deny as to the term “Nevertheless” which is argument. Admit the remainder of this paragraph.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants admit the factual assertions in the above paragraph.

191. CSOSA admitted that despite an “exhaustive search of all guidance, dating back to 2015,” it could find no guidance on how to “[e]valuat[e] whether people on parole or supervised released need reasonable accommodations” or how to “[p]rovid[e]” such accommodations if needed. Ex. 19, CSOSA 6/23 FOIA Response, at 1-2. The Commission admitted the same. Ex. 47, June 20, 2023 letter from the Commission to Ashika Verriest, Esq., in response to her May 31, 2023 FOIA request, at 1-2 (ECF No. 40-4); Ex. 48, Email from Commission to A. Verriest (Aug. 18, 2023) (ECF 40-5).

Response: The assertion is immaterial and thus no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute the factual assertions in the above paragraph. This assertion is material because Plaintiffs contend that Defendants’ failure to have written policies and procedures regarding disabilities contributes to Defendants’ failure to consistently and reliably accommodate supervisees.

192. CSOSA confirmed that it “does not have any current policies as it relates to disabilities” for individuals on supervision, including policies on “evaluating whether people need reasonable accommodations” or providing accommodations. Ex. 3 (CSOSA Dep.) at 81:13-82:12, 98:21-22.

Response: Defendants refer to the deposition testimony cited at 81:13-82:12 and 98:21-22 for a complete and accurate statement of its contents

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that Ms. Forsha testified that “CSOSA does not have any current policies as it relates to disabilities,” *id.* at 98:21-22, and agreed that “there’s no guidance regarding evaluating whether people need reasonable accommodations,” *id.* at 81:13-82:12.

193. There is no policy requiring CSOSA to consider disabilities when setting the details of supervision requirements, such as the frequency of appointments, or when enforcing the conditions of supervision. Ex. 1 (Answer) ¶ 43.

Response: Admit that there is no policy but deny the implication that CSOs cannot consider disabilities in their discretion with respect to these matters.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that there is no *policy requiring* CSOSA to consider disabilities when setting the details of supervision requirements.

194. The Commission confirmed that it has no “written policy” on “providing accommodations for disabilities” or the Rehabilitation Act. Ex. 4 (Commission Dep.) at 80:21-81:12; Ex. 42 (Defs. 5/12 Resp. to Interrogatories) at 5.

Response: Deny. The testimony at 80:21-81:12, again, refers to a representative of CSOSA’s responses when asked about the nature of a search for documents under FOIA, this is immaterial to the facts of this case. The Interrogatory Response states: While the Commission has no formal, official, or standardized system or process for providing reasonable accommodations to individuals with Disabilities on Supervision, it does provide reasonable accommodations where appropriate to individuals with Disabilities on Supervision. One such example is reinstating an individual with a Supervision violation to Supervision rather than imposing prison time for the violation where the individual alleges that the violation was caused by a Disability. Another

example is that, where an individual raises a Disability-related issue with his or her ability to comply with a general or special condition of Supervision, the Commission assesses whether a reasonable accommodation is required and, if so, provides it by modifying the condition at issue. Where the Disability-related issue an individual raises lies with his or her ability to comply with the requirements of Supervision imposed by CSOSA, the Commission cannot unilaterally modify those conditions. Ex. 42 (Defs. 5/12 Resp. to Interrogatories) at 5-6.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. The record citation refers to deposition testimony from a representative of the *Commission*, not CSOSA. That testimony, from Mr. Vela in his capacity as the 30(b)(6) deponent for the Commission, directly supports the above assertion. When asked in his deposition whether “as of May 2023, the Commission did not have any policies, procedures, or guidelines related to providing accommodations for disabilities,” Mr. Vela responded, “Correct.” Ex. 4 (Commission Dep.) at 80:21-81:3. When asked whether “USPC has issued any written policy on providing accommodations for disabilities since [May 2023],” Mr. Vela responded, “No.” *Id.* at 81:4-9. When further asked, “Since May 2023, has the Commission issued any written policy on Section 504 compliance,” Mr. Vela, responded, “No.” *Id.* at 81:10-12. Moreover, Defendants’ FOIA responses concerning Defendants’ policies, procedures, and guidance regarding disabilities are material to this case, as Plaintiffs contend that Defendants’ failure to have written policies and procedures regarding disabilities contributes to Defendants’ failure to consistently and reliably accommodate supervisees. Further, Plaintiffs dispute that Defendants provide reasonable accommodations to supervisees with disabilities where appropriate on a systemic, reliable, or consistent basis. *See* Pls.’ Resp. to Defs’ SUMF ¶ 109.

Lack of System for Identification of Disabilities and Accommodation Needs

195. As Plaintiffs’ expert explained, identifying disability-related needs is “critical for ensuring that supervision conditions are tailored appropriately.” Ex. 14 (Mitchell Rep.) at 16-17.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that identifying disability-related needs is “critical for ensuring that supervision conditions are tailored appropriately.” *Id.* Defendants did not submit their own expert or challenge Ms. Mitchell’s assertion on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and factual observations based on her experience, not an instruction on the law. Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

196. She also explained that agencies must “proactiv[ely] identif[y] and assess[] . . . disability-related needs” “at the outset.” *Id.* at 17.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this fact. Defendants did not submit their own expert or challenge Ms. Mitchell’s assertion on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and factual

observations based on her experience, not an instruction on the law. Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

197. Not all disabled people know that they have a disability. Ex. 3 (CSOSA Dep.) at 153:8-11; Ex. 14 (Mitchell Rep.) at 17; Ex. 17 (Mitchell Dep.) at 47:24-48:4.

Response: The assertion is the opinion of Plaintiffs' expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Indeed, when asked, "[I]sn't it true that not all disabled people know that they have a disability?" Ms. Forsha responded, "That's correct." Ex. 3 (CSOSA Dep.) at 153:8-11. Additionally, CSOSA stated that "some disabilities may not be visible to the CSO and may not be forthcoming from the supervisee." Ex. 42, Defendants' May 12, 2025 Response to Interrogatories, at 9. Further, this paragraph relies on Ms. Mitchell's report for a factual observation, not for a legal opinion. Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4).

198. Some disabilities, such as "communication disorders, intellectual disabilities, TBI, or severe mental illness" can make it difficult for a person to communicate their disabilities or to understand questions about disabilities. Ex. 14 (Mitchell Rep.) at 13, 17; Ex. 3 (CSOSA Dep.) at 153:12-17; Ex. 17 (Mitchell Dep.) at 47:24-48:4.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Indeed, Ms. Forsha agreed that “some disabilities make it difficult to communicate their disabilities” and “to understand questions about disabilities.” Ex. 3 (CSOSA Dep.) at 153:12-17. Further, this paragraph relies on Ms. Mitchell’s report for a factual observation, not for a legal opinion. Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4).

199. Additionally, “[g]iven the significant power that supervision staff have over the lives of people on supervision, individuals may fear judgment, retaliation, or being labeled ‘difficult’—detering them from requesting accommodations.” Ex. 14 (Mitchell Rep.) at 17.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Defendants did not submit their own expert or challenge Ms. Mitchell’s assertions on this point. Further, this paragraph relies on Ms. Mitchell’s report for a factual observation and experience-based inference, not for a legal opinion. Fed. R. Evid. 702(a). Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4).

200. Without proactive identification, supervisees face otherwise “avoidable barriers to compliance, such as misunderstanding conditions, missing appointments, or struggling to access required programs.” *Id.*

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Defendants did not submit their own expert or challenge Ms. Mitchell’s assertions on this point. This paragraph relies on Ms. Mitchell’s report for a factual observation and experience-based inference, not for a legal opinion. Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4).

201. Defendants have “no formal policies, procedures, or guidelines instructing officers how to evaluate” whether individuals have a disability. *Id.* at 25.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Ms. Mitchell’s report relies on Defendants’ own admissions. *See id.* at 25 n.8 (citing CSOSA FOIA response dated June 23, 2023, and September 5, 2023; USPC FOIA response dated June 20, 2023, and August 18, 2023; Defendants’ Objections and Responses to Plaintiffs’ First Set of Interrogatories dated May 12, 2025.). Moreover, Defendants confirmed this fact during depositions. When asked whether CSOSA stated in its FOIA response that the agency had no policies or guidance regarding

“evaluating whether people on parole or supervised release need reasonable accommodations” Ms. Forsha responded, “Yes, correct, there is no guidance.” Ex. 3 (CSOSA Dep.) at 81:7-82:5; *see also id.* at 78:16-17. When asked if she had “any reason to believe that the information that was provided in response to this FOIA request is incorrect,” Ms. Forsha responded, “No.” *Id.* at 82:6-12. Likewise, when asked whether, “as of May 2023, the Commission did not have any policies, procedures, guidelines, or other rules or instructions with controlling effect regarding evaluating people on parole or supervised release for disabilities” Mr. Vela responded, “Correct. The Commission had no policies.” Ex. 4 (Commission Dep.) at 79:1-11. When asked whether “the Commission issued any written policy on evaluating people on supervision for disability since May 2023,” Mr. Vela responded, “No.” *Id.* at 79:12-15. Further, this paragraph relies on Ms. Mitchell’s report for a factual observation based on her review of Defendants’ own records, not for a legal opinion. Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4).

202. CSOSA does not provide specific questions a CSO should ask to learn if their supervisee has a disability. Ex. 3 (CSOSA Dep.) at 153:2-7.

Response: Deny. 153:2-7 contains the following exchange: Question: What questions do CSOs ask to learn if their supervisee has a disability? A There’s no set of –there’s no—there’s no specific set of questions.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the fact that “there’s no specific set of questions” that a CSO should ask to learn if a supervisee has a disability. *See id.*

203. The Commission does not have “any policies, procedures, guidelines or other rules or instructions with controlling effect regarding evaluating people on parole or supervised release for disabilities.” Ex. 4 (Commission Dep.) at 79:1-15, 81:4-82:7.

Response: Deny. The deposition testimony cited at 79:1-15, 81:4-82:7 refers to a FOIA request and the Agency’s response that an exhaustive search did not reveal any policies.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Mr. Vela, in his capacity as the Commission’s 30(b)(6) deponent, confirmed the Commission’s FOIA responses in his deposition. When asked whether, “as of May 2023, the Commission did not have any policies, procedures, guidelines, or other rules or instructions with controlling effect regarding evaluating people on parole or supervised release for disabilities” Mr. Vela responded, “Correct. The Commission had no policies.” Ex. 4 (Commission Dep.) at 79:1-11. When asked whether “the Commission issued any written policy on evaluating people on supervision for disability since May 2023,” Mr. Vela responded, “No.” *Id.* at 79:12-15. Further, Defendants’ FOIA responses concerning their policies, procedures, and guidance regarding disabilities are material to this case, as Plaintiffs contend that Defendants’ failure to have such policies and procedures contributes to Defendants’ failure to consistently and reliably accommodate supervisees.

204. The Commission does not “identif[y] [individuals] . . . as having a Disability.” Ex. 44, Defendants’ Objections and Responses to Plaintiffs’ First Set of Requests for Production (Feb. 14, 2025), at 6.

Response: Deny. The assertion is incomplete and fully states: The Commission does not itself “identif[y] [individuals] . . . as having a Disability.” In accordance with the agreement of the parties, the Commission will produce Notices of Action and Hearing Summaries for probable

cause, revocation, or termination hearings for those individuals identified by CSOSA as having a Disability that post-date June 1, 2022, promptly after the entry of a protective order. *Id.*

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that the Commission “does not itself ‘identif[y] [individuals] . . . as having a Disability.’” *Id.*

205. The Commission does not use any “standardized screening tool” to identify people on supervision with disabilities. Ex. 4 (Commission Dep.) at 154:3-5.

Response: Admit.

206. The Commission does not provide training to either its hearing examiners or its case analysts on how to assess if a person has disabilities. *Id.* at 101:1-4, 144:2-5.

Response: Deny. The Commission has added discussions of disabilities and reasonable accommodations to its training of hearing examiners. Vela Decl. ¶ 29.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Mr. Vela’s assertion in his Summary Judgment declaration directly contradicts his prior sworn deposition testimony. During his deposition on December 17, 2025, Mr. Vela was asked, “Does the Commission provide training to hearing examiners about how to assess if a person has disabilities?” and he answered “No.” Ex. 4 (Commission Dep.) at 101:1-4. When further asked, “Do case analysts [at the Commission] receive training about how to assess if a person has disabilities,” Mr. Vela responded, “No.” *Id.* at 144:6-8. In his post-discovery declaration, dated May 4, 2026, Mr. Vela asserted that, “As of March 20, 2025 [months *prior to* Mr. Vela’s deposition], the Commission has added discussions of disabilities and reasonable accommodations to its training of hearing examiners.” Vela Decl. ¶ 28. “[A] party cannot create a genuine issue of fact sufficient to survive summary judgment simply by contradicting his or her own previous sworn statement (by, say, filing a later affidavit that flatly contradicts that party’s earlier sworn

deposition).” *Cleveland v. Pol’y Mgmt. Sys. Corp.*, 526 U.S. 795, 806 (1999); *see also* Pls.’ Summary Judgment Cross-Op/Reply Br. at 31-32.

207. As of 2025, the Commission added a new textbox on the probable cause digest, prehearing assessment, and hearing summary forms entitled “Disabilities/Accommodations” that “prompts the hearing examiner to ask questions and find out” if the supervisee has any disabilities or accommodations. *Id.* at 28:20-29:5.

Response: Admit.

208. Hearing examiners are not trained on “what questions to ask in order to fill out [the] box.” *Id.* at 94:19-22.

Response: Admit.

209. Although hearing examiners are “instructed” to fill out the disability/accommodations textbox, they can still submit the form with an empty box. *Id.* at 113:1-11; *see also id.* at 93:3-13, 92:9-12.

Response: The assertion is not supported by the citation to the record.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. When asked if “the text boxes [] all must be filled out before, in order for the form to be submitted,” Mr. Vela responded, “Not must[.]” Ex. 4 (Commission Dep.) at 92:9-12. When further asked “in order to submit the form, could this [disability/accommodations] text box be empty?” Mr. Vela responded, “Yes, it could.” *Id.* at 93:3-8. And when asked if Mr. Vela can “see that this one [referring to the disability/accommodations textbox] is not filled out,” Mr. Vela responded, “I see that, yes.” *Id.* at 113:1-11.

210. The system does not inform hearing examiners when they have left the disability/accommodations textbox blank. *Id.* at 93:8-13.

Response: The assertion is not supported by the citation to the record.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Mr. Vela stated, "I don't believe at this point there's a fail-safe in prompting the examiner to fill it out before they send" the form in. Ex. 4 (Commission Dep.) at 93:8-10.

211. The Commission has acknowledged that some forms have been submitted with the disability/accommodations textbox left blank. Ex. 4 (Commission Dep.) at 113:9-11, 115:11-14; *see also* Ex. 45, MATHIS-USPC-00000343 (Commission Dep., Ex. 7); Ex. 46, MATHIS-USPC-00000484 (Commission Dep., Ex. 8).

Response: The assertion is immaterial and thus no response is required. To the extent any response is required, admit.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute the above assertion. This fact is directly material to *Defendants' own argument* that the disability/accommodations textbox is a mechanism to identify and evaluate supervisees' disabilities, and to Plaintiffs' response that it is insufficient to ensure people are reliably and consistently accommodated.

212. Defendants do not have an official, standardized system for assessing whether and what types of accommodations people on supervision require. Ex. 1 (Answer) ¶ 149; Ex. 47 (Commission 6/20 FOIA Response) at 1-2; Ex. 19 (CSOSA 6/23 FOIA Response) at 2; Ex. 43 (CSOSA 9/5 FOIA Response) at 2; Ex. 48 (Email from Commission to A. Verriest (Aug. 18, 2023)).

Response: Admit.

213. An “exhaustive search” of CSOSA’s policies dating back nine years “yielded no guidance/instruction/etc.” regarding evaluating whether people on supervision need reasonable accommodations. Ex. 1 (Answer) ¶ 43.

Response: Admit.

214. CSOSA does not train CSOs on “how to determine what accommodations are appropriate for disabilities” or “how to provide accommodations for disabilities.” Ex. 3 (CSOSA Dep.) at 123:11-14, 124:2-8.

Response: Admit.

215. CSOs do not “ask supervisees if they need accommodations for their disability” when “setting the requirements” for supervision or “[o]ver the course of supervision.” *Id.* at 154:19-155:1; 181:8-12.

Response: Defendants refer the Court to the cited deposition testimony for a complete and accurate statement of its contents but deny any implication that CSOs cannot make such inquiries in their discretion.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that, when asked, “When setting the requirements for a condition, do CSOs ask supervisees if they need accommodations for their disability to be able to follow those rules?”, Ms. Forsha responded, “No.” *Id.* at 154:19-155:1. Further, when asked, “Over the course of supervision, do CSOs ask supervisees with disabilities if they need accommodations in order to be able to comply with their supervision rules?”, Ms. Forsha responded, “No.” *Id.* at 181:8-12.

216. The Commission does not have a single “document[] containing policies, procedures, guidelines or any other rules or instructions” on “[e]valuating whether people on

parole or supervised release need reasonable accommodations.” Ex. 47 (Commission 6/20 FOIA Response) at 1-2.

Response: Defendants refer the Court to the referenced FOIA response for a complete and accurate statement of its contents and deny any assertion in this paragraph inconsistent with that response.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that the Commission had no responsive documents to Plaintiffs’ request for “[a]ll documents containing policies, procedures, guidelines or any other rules or instructions which have controlling effect over USPC as of May 2023” regarding “[e]valuating whether people on parole or supervised release have disabilities[.]” *Id.*; *see also* Ex. 48 at 3 (“Yes, we are confirming that the Commission does not have any responsive records for requests” including the aforementioned request).

Lack of System to Notify Supervisees of their Rights

217. As Plaintiffs’ expert explained, a “foundational element of any functional accommodations system” is providing individuals with disabilities with “clear, repeated, and accessible” notice of their rights to accommodation and how to receive such accommodation. Ex. 14 (Mitchell Rep.) at 18.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this statement. Defendants did not submit their own expert or contest Ms. Mitchell’s assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices, not

for an instruction on the law. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

218. She also explained that without notice of their rights, “many supervisees will not have the knowledge to advocate for themselves, access necessary accommodations, or seek redress.” *Id.* at 27-28.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this statement. Defendants did not submit their own expert or contest Ms. Mitchell’s assertions on this point. This paragraph relies on Ms. Mitchell’s report for factual observations based on her experience, not for an instruction on the law. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

219. The Commission does not provide supervisees with any information on their rights under the Rehabilitation Act when they enter supervision, when imposing supervision conditions, or “while they are on supervision.” Ex. 4 (Commission Dep.) at 80:6-20; 136:2-6.

Response: This assertion contains a legal conclusion to which no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. When asked, “When supervisees enter supervision, are they provided with any information on their rights under

Section 504?” Mr. Vela responded, “Not from the Commission.” Ex. 4 (Commission Dep.) at 80:6-12. When asked, “[D]uring supervision, are supervisees ever provided written notice of their right to accommodations?” Mr. Vela responded, “Not from the Commission.” *Id.* at 80:13-20. When asked, “Does the Commission communicate any notice of rights for requesting accommodations to the supervisee at or before setting the initial conditions,” Mr. Vela responded, “No.” *Id.* at 136:2-6. Further, this is a factual assertion made by the Commission’s own 30(b)(6) representative about whether the Commission provides notice, not a legal conclusion regarding whether notice is *legally required*.

220. CSOSA does not have any policies regarding notifying supervisees of their rights under the Rehabilitation Act. Ex. 3 (CSOSA Dep.) at 78:8-22.

Response: This assertion contains a legal conclusion to which no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. When asked, “as of May 2023, did CSOSA have a policy . . . regarding notice to supervisees?” Ms. Forsha responded, “No.” Ex. 3 (CSOSA Dep.) at 78:18-22. Further, this is a factual assertion made by CSOSA’s own 30(b)(6) representative about whether CSOSA provides notice, not a legal conclusion regarding whether notice is *legally required*.

221. Defense counsel “represent[ed] to” Plaintiffs’ expert that “CSOSA and USPC . . . have not been notifying individuals of their rights . . . to seek accommodations.” Ex. 17 (Mitchell Dep.) at 42:1-9.

Response: The quoted language is incomplete and, accordingly, the record citation does not support the assertion in this paragraph.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. During Ms. Mitchell’s deposition, defense counsel stated to Ms. Mitchell, “Based on the documents you have

reviewed – and I am going to represent to you that CSOSA and USPC, which I think you just said have admitted, conceded that they have no formal policies and they have not been notifying individuals of their rights under or to seek accommodations.” *Id.*

222. Defendants have no guidance or instruction regarding the provision of notice to supervisees of their rights under the Rehabilitation Act, including their rights to reasonable modifications that would ensure meaningful access to supervision. Ex. 1 (Answer) ¶ 44; Ex. 19 (CSOSA 6/23 FOIA Response) at 2-3; Ex. 47 (Commission 6/20 FOIA Response) at 1-2; Ex. 48 (Email from Commission to A. Verriest (Aug. 18, 2023)).

Response: Admit.

Lack of System for Requesting Accommodations

223. As Plaintiffs’ expert explained, establishing a “consistent, accessible, and well-understood method for submitting accommodation requests” is key to ensuring that individuals with disabilities have a “fair and meaningful opportunity to comply with supervision conditions.” Ex. 14 (Mitchell Rep). at 18-19.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions in the above paragraph. Defendants did not submit their own expert or challenge Ms. Mitchell’s assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices, not for an instruction on the law. *See* Fed. R. Evid. 702(a). Moreover, Rule 56 permits reliance on report material where the substance can be presented in admissible form.

See Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

224. She also explained that forcing individuals to rely on “informal, inconsistent, or discretionary” methods of requesting accommodations fails to meet the Rehabilitation Act requirements and “contribute[s] to preventable supervision failures.” *Id.* at 18.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute the factual assertions in the above paragraph. Defendants did not submit their own expert or challenge Ms. Mitchell’s assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and factual observations based on her experience, not for a legal opinion. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

225. Defendants do not have a formal process through which an individual on supervision may request accommodations. Ex. 1 (Answer) ¶¶ 149, 43.

Response: Admit but deny any implication that accommodations cannot be requested through informal processes.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that Defendants do not have a formal process through which an individual on supervision may request accommodations. Further, Plaintiffs dispute that, as a practical matter, supervisees are able

to request accommodations through informal processes. *See* Pls.’ Resp. to Defs.’ SUMF ¶¶ 97, 106.

226. CSOSA does not have a “formal written process” for supervisees to request accommodations when they “first enter[] supervision[,]” “[d]uring supervision[,]” “during the revocation hearing process,” or upon reinstatement to supervision after revocation. Ex. 3 (CSOSA Dep.) at 166:20-167:2, 180:5-9; 192:1-5, 199:15-20; Ex. 42 (Defs. 5/12 Resp. to Interrogatories) at 9; Answer ¶ 149.

Response: Admit, however, CSOSA bears no control over the revocation hearing process or on decisions regarding reinstatement of supervision after revocation.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that CSOSA has no formal written process for supervisees to request accommodations at any stage in the supervision process. Further, CSOSA controls whether to file an alleged violation report that initiates revocation proceedings, *supra* ¶¶ 17-19, and CSOSA supervises people—including controlling the specific requirements of their supervision terms—when they are reinstated to supervision after revocation, *see* Ex. 3 (CSOSA Dep.) at 198:3-13 (discussing CSOSA’s supervision following reinstatement); *supra* ¶ 11 (CSOSA sets specific requirements of supervision terms).

227. CSOSA has no policy regarding how CSOs should “decide whether to grant or deny an accommodations request.” Ex. 3 (CSOSA Dep.) at 169:7-10.

Response: Admit.

228. The Commission does not have a “formal, official, or standardized system or process for individuals with Disabilities to seek or otherwise request reasonable accommodations.” Ex. 42 (Defs. 5/12 Resp. to Interrogatories) at 4; Ex. 4 (Commission Dep.) at 151:6-10.

Response: Admit.

229. The Commission does not have a “direct point of contact” for supervisees to request disability accommodations during supervision. Ex. 4 (Commission Dep.) at 136:21-137:1-5.

Response: This assertion is misleading because Supervisees may contact their individual CSO directly. Forsha Decl. ¶ 5.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that there is no “direct point of contact” at the *Commission* for supervisees to request disability accommodations during supervision. Ex. 4 (Commission Dep.) at 136:21-137:1-5.

230. The Commission has a general email address on its website that “anybody can submit anything to,” but supervisees are not informed that they can use this email as a way to request a disability accommodation. *Id.* at 137:6-16.

Response: This assertion is not supported by the citation to the record.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. When asked if there is an “indirect point of contact” for supervisees to request accommodations, Mr. Vela stated, “There’s always a – a general e-mail, it’s on the website. You can ask US Parole questions, I think, dot something. There’s an e-mail address that anybody can submit anything to the Commission.” *Id.* at 137:6-12. When asked, “But they’re not informed of using this e-mail as a way to request a disability accommodation,” Mr. Vela responded, “No.” *Id.* at 137:13-16.

Lack of System for Grieving Failures to Accommodate

231. As Plaintiffs expert explained, a formal grievance process serves as “a critical safeguard that ensures individuals with disabilities can enforce their rights” because, without “a

functional grievance mechanism, individuals are left without recourse when they encounter disability-related barriers to compliance.” Ex. 14 (Mitchell Rep.) at 19-20.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Defendants did not submit their own expert or challenge Ms. Mitchell’s assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and factual observations based on her experience, not for a legal opinion. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

232. She also explained that an adequate grievance system requires “a clear, accessible, and responsive . . . process for individuals with disabilities to challenge the denial, delay, or inadequate provision of reasonable accommodations,” including impartial review, protection from retaliation, and tracking mechanisms to “identify systemic issues or repeated failures to accommodate.” *Id.*

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Defendants did not submit their own expert or challenge Ms. Mitchell’s assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and

factual observations based on her experience, not for a legal opinion. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

233. Neither CSOSA nor the Commission has a grievance process for supervisees to challenge a failure to provide a disability accommodation. Ex. 3 (CSOSA Dep.) at 200:11-14; Ex. 4 (Commission Dep.) at 153:18-21.

Response: Deny in part; the representative for CSOSA noted that a supervisee may raise a grievance with their CSO and up the chain of command. (CSOSA Dep.) at 200:11-17. Admit to the extent that the citation supports the assertion that the Commission does not have a grievance process.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. When asked "Is there a grievance process for supervisees to challenge failures to provide accommodations," Ms. Forsha responded, "There's no formal policy on that." Ex. 3 (CSOSA Dep.) at 200:11-14. While Ms. Forsha stated that a supervisee could raise a grievance "[u]p the chain of command of that CSO," she agreed "[t]here's no formal policy for the grievances." *Id.* at 200:15-203:1. When asked, "Is there a grievance process for supervisees to challenge a failure to provide a disability accommodation," Mr. Vela replied, "No." Ex. 4 (Commission Dep.) at 153:18-21. Further, defense counsel represented to Ms. Mitchell, "Are you aware in this case the Defendants have admitted or conceded that they have no policies or practices relating to the grievance or appeal process for the grant or denial of an accommodation?" Ex. 17 (Mitchell Dep.) at 63:10-14.

Lack of a Centralized Accommodation Coordinator

234. As Plaintiffs expert explained, without “a dedicated and knowledgeable point of contact, accommodation processes often become fragmented, inconsistently applied, and overly reliant on individual officer discretion.” Ex. 14 (Mitchell Rep.) at 20.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Defendants did not submit their own expert or challenge Ms. Mitchell’s assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and factual observations based on her experience, not for a legal opinion. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

235. She also explained that a coordinator can provide “[s]ubject [m]atter [e]xpertise” and centralized oversight; “track accommodation requests, monitor implementation, [and] identify systemic trends”; and offer leadership in training and policy development. *Id.* at 20-21.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Defendants did not submit their own expert or challenge Ms. Mitchell’s assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and factual observations based on her experience, not for a legal opinion. *See* Fed. R. Evid. 702(a).

Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

236. Neither CSOSA nor the Commission has a designated disability accommodations coordinator to ensure supervisees with disabilities receive accommodations. Ex. 3 (CSOSA Dep.) at 59:9-14; Ex. 4 (Commission Dep.) at 62:4-6. While CSOSA has a staff member in its human resources office who addresses accommodation requests from CSOSA employees under Section 501 of the Rehabilitation Act, there is no one at CSOSA “whose role focuses on disability accommodations for supervisees” under Section 504. Ex. 3 (CSOSA Dep.) at 60:7-10.

Response: Admit to the first sentence; the second sentence contains a legal conclusion to which no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Ms. Forsha’s statement that there is no one at CSOSA “whose role focuses on disability accommodations for supervisees” *Id.* is a concrete fact, not a legal conclusion as to whether CSOSA is *legally required* to have an accommodations coordinator.

Lack of Training on Accommodation Process

237. As Plaintiffs’ expert explained, training is “[a] central pillar of any effective supervision system” because it is “the mechanism by which policies, rights, and procedures become actionable and consistently applied.” Ex. 14 (Mitchell Rep.) at 21.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Defendants did not submit their own expert or challenge Ms. Mitchell’s factual assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices, not for a legal opinion. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

238. She also explained that without “structured, recurring training,” supervision officials “are left to navigate complex disability-related issues without adequate preparation, resulting in inconsistent practices and harm to supervisees.” *Id.*

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Defendants did not submit their own expert or challenge Ms. Mitchell’s factual assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and factual observations based on her experience, not for a legal opinion. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

239. Plaintiffs’ expert stated that staff training should address legal obligations, disability identification, accommodation assessment and provision, procedures for supervisees to

request accommodations and to grieve failures to accommodate and tracking and communication about accommodation needs. *Id.* at 21-22.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Defendants did not submit their own expert or challenge Ms. Mitchell’s factual assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and factual observations based on her experience, not for a legal opinion. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

240. In the absence of such training, she explained, CSOs “may not know what constitutes a disability, what an accommodation is, or that people are legally entitled to accommodations—let alone how to provide accommodations.” *Id.* at 29.

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute this assertion. Defendants did not submit their own expert or challenge Ms. Mitchell’s factual assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and factual observations based on her experience, not for a legal opinion. *See* Fed. R.

Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

241. CSOSA admits that it has never offered “any training or information sessions regarding the Rehabilitation Act” or on “any aspect of disability law.” Ex. 3 (CSOSA Dep.) at 25:3-8, 121:19-122:4.

Response: This assertion calls for a legal conclusion and therefore no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Ms. Forsha’s statement that CSOSA has never offered “any training or information sessions regarding the Rehabilitation Act” or on “any aspect of disability law” is a concrete fact, not a legal opinion regarding whether CSOSA is *legally required* to offer such training.

242. CSOSA does not provide training on:

- a. how to “identify and observe disabilities,” *id.* at 179:14-17;
- b. how to “assess if a person has disabilities,” *id.* at 122:5-7;
- c. how to “determine what accommodations are appropriate for disabilities,” *id.* at 123:11-14;
- d. how to “provide accommodations for disabilities,” *id.* at 124:2-4;
- e. how to “determine if an accommodation for a disability is working effectively,” *id.* at 124:5-8;
- f. “the process for supervisees to request accommodations,” *id.* at 123:21-124:1;
- g. “how to document a person’s disabilities and accommodation needs,” *id.* at 128:8-11;

- h. “how to communicate with the Commission about a person’s disability and accommodation needs,” *id.* at 128:12-15; or
- i. “how to communicate with other CSOs” or the supervising CSO “about a person’s disabilities and accommodation needs,” *id.* at 128:16-21.

Response: Defendants refer the Court to the record citation for a complete and accurate statement of its contents and aver that many of these assertions are immaterial, and further respond as to each subitem:

- a. The assertion is not supported by the citation to the record. To the extent a response is required, Defendants Deny. The representative for CSOSA answered “not routinely.”
- b. Admit.
- c. Admit.
- d. Admit.
- e. Admit.
- f. Admit.
- g. Admit.
- h. Admit.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact and do not respond to subsection (i). Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Further, whether CSOSA provides training on disabilities and accommodations is material to Plaintiffs’ argument that CSOSA’s failure to provide training on these topics contributes to its failure to consistently and reliably provide needed accommodations.

243. CSOSA provides general risk, needs, responsivity (“RNR”) training, but that RNR training “is not specific to disability” and does not provide any “guidance on how to craft reasonable accommodations.” *Id.* at 209:16-20, 123:8-10, 155:22-156:6, 116:21-117:6.

Response: Admit.

244. The Commission offers no training on:

- a. the Rehabilitation Act, Ex. 4 (Commission Dep.) at 100:19-22;
- b. “how to assess if a person has disabilities,” *id.* at 101:1-4;
- c. “how to determine if a person is facing barriers to follow supervision rules due to their disabilities and may need accommodations,” *id.* at 101:5-10;
- d. “how to determine what disability accommodations are appropriate,” *id.* at 101:11-14;
- e. “the process for supervisees to request disability accommodations,” *id.* at 101:15-18;
- f. “how to provide disability accommodations,” *id.* at 101:19-22;
- g. how to determine if “accommodations . . . that have been provided are working effectively,” *id.* at 102:1-5;
- h. “how to consider a person’s disability-related barrier when assessing an AVR” or “deciding whether to hold a revocation hearing,” *id.* at 102:6-16;
- i. “how to document a person’s disabilities and accommodation needs,” *id.* at 102:17-20;
- j. “how to modify general or special conditions of supervision to accommodate disabilities,” *id.* at 102:21-103:3;

- k. “how to communicate with CSOSA about a person’s disabilities and accommodation needs,” *id.* at 103:4-7; or
- l. “how to communicate with the Bureau of Prisons about a person’s disabilities and accommodation needs,” *id.* at 102:17-103:12.

Response: Defendants refer the Court to the cited deposition testimony for a complete and accurate statement of their contents and deny the allegations to the extent inconsistent with the content of that testimony and aver that many of these assertions are immaterial.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Mr. Vela admitted that the Commission does not provide training on any of the aforementioned aspects of disabilities or accommodations. *See id.* at 102:17-103:12. Further, whether the Commission provides training on disabilities and accommodations is material to Plaintiffs’ argument that CSOSA’s failure to provide training on these topics contributes to its failure to consistently and reliably provide needed accommodations.

245. The Commission requires no training at all for its commissioners—disability-related or otherwise. *Id.* at 103:15-20. Commissioners “get approved by the Senate and they just start working.” *Id.* at 103:22-104:4.

Response: Deny. The quoted language is the question asked by the Plaintiff’s attorney during the deposition.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Plaintiffs’ counsel asked, “What training are commissions required to complete,” and Mr. Vela responded “None.” *Id.* at 103:15-20. Plaintiffs’ counsel responded, “None? So they just get approved by the Senate and they just start working?” and Mr. Vela responded, “Yes.” *Id.* at 103:21-104:4.

Lack of System to Track and Communicate About Accommodations

246. As Plaintiffs expert explained, “[t]o ensure that accommodations for individuals with disabilities are provided consistently, effectively, and equitably, supervision agencies must implement structured systems for tracking, monitoring, and quality assurance.” Ex. 14 (Mitchell Rep.) at 22. Without such systems, “agencies cannot evaluate whether their accommodations processes are functioning, or whether individuals are being placed at heightened risk of supervision failures.” *Id.*

Response: The assertion is the opinion of Plaintiffs’ expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute these factual assertions. Defendants did not submit their own expert or challenge Ms. Mitchell’s factual assertions on this point. This paragraph relies on Ms. Mitchell’s report for industry practices and factual observations based on her experience, not for a legal opinion. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

247. Inter-office and inter-agency communication help ensure that, “for instance, if an individual’s supervision officer changes, the new supervision officer is aware of their disability-related barriers and accommodation needs” and “that when USPC is evaluating whether to revoke an individual’s supervision, those officials have relevant information about how a supervisee’s unaccommodated disability may have contributed to the alleged violation.” *Id.* at 23.

Response: The assertion is the opinion of Plaintiffs' expert asserting an improper legal conclusion, not an assertion of fact in compliance with Local Civil Rule 7(h) and, accordingly, no response is required.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute these factual assertions. Defendants did not submit their own expert or challenge Ms. Mitchell's factual assertions on this point. This paragraph relies on Ms. Mitchell's report for industry practices and factual observations based on her experience, not for a legal opinion. *See* Fed. R. Evid. 702(a). Further, Rule 56 permits reliance on expert report material where the substance can be presented in admissible form. *See* Fed. R. Civ. P. 56(c)(1)-(2), (4). To the extent Defendants believe the factual assertions contain any legal conclusions, they must still respond to the underlying facts.

248. CSOSA has no system for tracking all disabilities. Ex. 3 (CSOSA Dep.) at 163:22-164:22.

Response: The assertion is not supported by the citation to the record and therefore no response is required.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Ms. Forsha stated that CSOSA "could pull a report of anyone who has a check box with disabled" but when asked if the check box "fully encompass[es] those with disabilities," Ms. Forsha responded "No." *Id.* at 164:7-13. When asked if there "is a list that could be pulled from those who have that check box" or if that check box is that pulled with any frequency?" Ms. Forsha responded, "No." *Id.* at 164:14-17. When asked, 'Is there a person who maintains that list?' Ms. Forsha responded, "No." *Id.* at 164:18-19. *See also* Ex. 44, Defendants' Objections and Responses to Plaintiffs' First Set of Requests for Production (Feb. 14, 2025), at 4 ("Defendant CSOSA does not currently track

‘individuals . . . identified . . . as having’ either a physical or an intellectual/developmental Disability.”).

249. CSOSA does not maintain and cannot provide a list of accommodations requests, denials, or grants. Ex. 3 (CSOSA Dep.) at 165:19-21; *id.* at 171:18-20 (Q Is CSOSA able to provide a list of all such accommodation requests, denials and grants? A No.”).

Response: Deny. CSOSA is currently working on a system that will track and compile a list of accommodations requires, denials, or grants. Forsha Decl. ¶ 6.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that CSOSA *currently* does not maintain and cannot provide a list of accommodation requests, denials, or grants. *See* Ex. 3 at 165:19-21; *id.* at 171:18-20. The fact that, after her deposition, Ms. Forsha subsequently submitted a declaration stating that CSOSA has “drafted” a new policy that she asserts will, at some uncertain date in the future, allow the agency to provide such a list is immaterial. *See* Forsha Decl. ¶ 6. (policy “has been drafted” and remains under “review”). Hypothetical, future policies have no bearing on this Court’s decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers Conservation Network v. Pritzker*, 139 F. Supp. 3d 102, 111-12 (D.D.C. 2015) (“[I]t is well established that promises of future compliance with the law cannot satisfy the Government’s current legal obligation.”); Pls.’ Summary Judgment Cross-Op/Reply Br at 32.

250. CSOSA does not track the frequency of accommodation grants or denials. Ex. 3 (CSOSA Dep.) at 171:21-172:1; *see also id.* at 165:19-21.

Response: Admit.

251. Defense counsel represented to Plaintiffs' expert that "CSOSA and USPC have admitted they do not regularly track individuals with disabilities, nor do they have . . . regular reporting on accommodations." Ex. 17 (Mitchell Dep.) at 63:19-25.

Response: These quotation are not complete and thus not supported by the record citation.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Defense counsel stated to Ms. Mitchell, in full, "Are you aware that in this case CSOSA and USPC have admitted they do not regularly track individuals with disabilities, nor do they have sort of regular reporting on accommodations?" *Id.*

252. Disabilities and accommodations may be noted in a supervisee's running record. Ex. 3 (CSOSA Dep.) at 92:12-18, 99:1-3.

Response: Admit.

253. The running record is part of CSOSA's case management system and has a chronological series of notes entered by anyone at CSOSA with whom the supervisee has contact. *Id.* at 87:3-5, 93:19-95:19.

Response: Admit.

254. CSOSA does not require CSOs to note disabilities or accommodations in the running record, train them on how to do so, or provide any consistent keywords or purpose codes to do so. *Id.* at 210:7-12, 94:17-98:22.

Response: Admit.

255. CSOSA's case management system has a "disability flag" feature. *Id.* at 84:2-21, 85:2-3, 203:2-204:11; Ex. 19 (CSOSA 6/23 FOIA Response) at 2.

Response: Admit.

256. CSOSA does not train or require CSOs to check the disability box or fill out its narrative field. Ex. 3 (CSOSA Dep.) at 98:18-22, 101:10-20.

Response: This assertion is immaterial and therefore does not require a response.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute this assertion. This fact is directly material to *Defendants' own argument* that the disability flag feature is a method through which they track disabilities, and to Plaintiffs' response that it is insufficient to ensure disabilities are reliably and consistently tracked.

257. The disability flag “does not indicate” what kind of disability an individual has or whether the individual is receiving accommodations; the flag could indicate an individual is “high risk,” has “special needs,” or has “referrals outstanding.” *Id.* at 205:21-206:2, 203:19-20.

Response: This assertion is immaterial and therefore does not require a response.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute this assertion. The assertion is material to *Defendants' own argument* that the disability flag feature is a method through which they track disabilities, and to Plaintiffs' response that it is insufficient to ensure disabilities are reliably and consistently tracked.

258. The Commission does not “maintain a list of supervisees with disabilities” or “track disability accommodations provided by CSOSA.” Ex. 4 (Commission Dep.) at 139:5-7, 153:22-154:2; Ex. 49, Defendants' Objections and Responses to Plaintiffs' Second Set of Interrogatories (July 2, 2025), at 2-3.

Response: Deny. CSOSA is currently working on a system that will track and compile a list of accommodations requires, denials, or grants. Forsha Decl. ¶ 6.

Plaintiffs' Reply: Defendants show no genuine dispute of material fact. There is no dispute that the Commission does not *currently* maintain a list of supervisees with disabilities or track disability accommodations provided by CSOSA. Defendants' response is immaterial because hypothetical, future policies have no bearing on this Court's decision regarding whether Defendants currently accommodate people with disabilities on supervision. *See Anglers*, 139 F. Supp. 3d at 111-12; Pls.' Summary Judgment Cross-Op/Reply at 32. It is further immaterial because Plaintiffs' assertion refers to lists maintained by the *Commission* (not CSOSA).

259. The Commission stated that it “has no way of identifying” individuals who have been provided accommodations as it has no “searchable” database. Ex. 49 (Defs. 7/2 Interrogatory Resp.) at 2-3.

Response: Admit.

260. Accommodation decisions are not searchable in any CSOSA or Commission database. Ex. 3 (CSOSA Dep.) at 165:22-166:2; Ex. 49 (Defs. 7/2 Interrogatory Resp.) at 3 (Commission); *id.* at 4 (CSOSA).

Response: Admit.

261. The Commission “has no formal, official, or standardized system or process for relaying to or discussing with CSOSA any request for a reasonable accommodation,” “any accommodations provided,” “or any other documentation related to the Disability of such an individual.” Ex. 42 (Defs. 5/12 Resp. to Interrogatories) at 7.

Response: Deny. CSOs submit AVR's to the Commission and communicate regarding their supervisees' progress. Forsha Decl. ¶ 5.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Defendants do not dispute that Defendants stated, in their Interrogatory response, that the Commission “has no formal, official, or standardized system or process for relaying to or discussing with CSOSA any request for a reasonable accommodation,” “any accommodation provided,” “or any other documentation related to the Disability of such an individual.” Ex. 42 (Defs. 5/12 Resp. to Interrogatories) at 7. Ms. Forsha’s summary judgment declaration states that “[i]nformation regarding disability-related barriers [] *may* be conveyed to USPC through the submission of [AVRs].” Forsha Decl. ¶ 5 (emphasis added). However, “[t]here’s no specific sections that says disabilities or accommodations” on the AVR form. Ex. 4 (Commission Dep.) at 145:22-146:1. Further, AVRs typically do not contain disability-related information. *See supra* ¶¶ 62, 72, 83, 90, 98, 105, 114, 143.

262. CSOSA stated that there is “no formal directive” for CSOs to communicate to the Commission that a supervisee needs accommodations. Ex. 3 (CSOSA Dep.) at 211:15-212:7.

Response: This assertion is immaterial and therefore no formal response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not deny this assertion. This assertion is material because Plaintiffs contend that Defendants’ failure to communicate about supervisees’ accommodation needs contributes to their failure to consistently and reliably provide accommodations.

263. CSOSA makes annual progress reports to “let the Parole Commission know how supervision is going,” including “how the individual is doing” and how “they’re adjusting to

supervision.” Disabilities and accommodations “can be” but are “not required” to be included in the report. *Id.* at 108:8-109:9, 110:14-112:13.

Response: Admit.

264. CSOs change regularly. Ex. 11 (K. Davis Decl.) at ¶ 26.

Response: Admit.

265. CSOs are not required to list information about disabilities or accommodations when transferring supervision to a new CSO. Ex. 3 (CSOSA Dep.) at 208:1-14.

Response: Deny. New CSOs may access the running records, which may document known disabilities.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. There is no dispute that CSOs are not *required* to list information about disabilities or accommodations when transferring supervision to a new CSO. *Id.*

266. New CSOs are not required to review the entire running record or search that record for key words or other information related to disabilities or accommodations. *Id.* at 210:2-12.

Response: This assertion is immaterial and therefore no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute this assertion. This assertion is material because Plaintiffs allege that Defendants’ failure to systematically track and communicate about supervisees’ disability-related needs contributes to Defendants’ failure to consistently and reliably provide accommodations.

No Evidence of Ad-Hoc Accommodations

267. When asked for “[a]ll Documents to support CSOSA’s contention that it ‘has used informal practices to identify, document, and address reasonable accommodations,’ CSOSA responded “there are no responsive records as the practices referenced are, by CSOSA’s own contention, ‘informal,’ provided on a case-by-case basis, and not searchable.” Ex. 50, Defendants’ Objections and Responses to Plaintiffs’ Second Set of Requests for Production (July 2, 2025), at 2-3.

Response: Admit.

268. In response to a request for “all [d]ocuments to support the Commission’s contention” that it assesses disabilities and “provide[s] reasonable accommodations where appropriate,” the Commission likewise responded that “it has no way of identifying such individuals as accommodations are assessed and provided on a case-by-case basis and are not searchable.” *Id.* at 5.

Response: This assertion is immaterial and therefore no response is required.

Plaintiffs’ Reply: Defendants show no genuine dispute of material fact. Simply characterizing a fact as immaterial is insufficient to raise a genuine dispute as to its truth. *Herrion*, 786 F. Supp. 2d at 362; *Jankovic*, 72 F. Supp. 3d at 291. Defendants do not dispute this assertion. Moreover, it is material to Plaintiffs’ claim that Defendants do not consistently and reliably accommodate people in practice. Notably, Defendants admitted the statement with respect to CSOSA, without contesting its materiality.

Dated June 3, 2026

Respectfully submitted,

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