

JURY TRIAL DEMANDED

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2. This Court has supplemental jurisdiction over the state law claim in this case pursuant to 28 U.S.C. § 1367 because the state law claim is so related to the claims that are within this Court's original jurisdiction that they form part of the same case or controversy.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims set forth herein occurred within the jurisdiction of this Court.

PARTIES

4. Plaintiff N.S. is a minor child who has resided at all relevant times in Philadelphia, Pennsylvania and who at all relevant times has been a student attending the School District of Philadelphia.

5. Plaintiff Nakita Sibert-Mosely ("Mrs. Sibert-Mosley") is the natural parent and legal guardian of N.S., and at all relevant times was a resident of Philadelphia, Pennsylvania.

6. Defendant School District of Philadelphia is a Pennsylvania public school district with central offices at 440 North Broad Street, Philadelphia, PA 19130.

7. Defendant Mr. Alexander (first name unknown) is named as a defendant both in his individual capacity and, for the purposes of the affirmative relief sought herein, his official capacity. At all relevant times, he acted under color of state law as a member of the "Lamberton Leadership Team."

8. Defendant Wendy Goldberg is named as a defendant both in her individual capacity and, for the purposes of the affirmative relief sought herein, his official capacity. At all relevant times, she acted under color of state law as Lamberton's school counselor.

9. Defendant Pamela Redmond is named as a defendant both in her individual capacity and, for the purposes of the affirmative relief sought herein, in her official capacity. At all relevant times, she acted under color of state law as Lamberton's principal.

PERTINENT FACTS

10. N.S. is a nine-year-old student attending third grade in the School District of Philadelphia.

11. In the 2017-2018 school year, N.S. attended second grade at Robert Lamberton School ("Lamberton"), an elementary school in the School District of Philadelphia.

12. At the beginning of the 2017-2018 school year, Mrs. Sibert-Mosley noted that N.S. was returning home from school with injuries on her body.

13. On 22 September 2017, N.S. returned home from school with a bruise on her forehead.

14. That month, N.S. also came home from school with sores on her knees, face, and hands.

15. In September 2017, Mrs. Sibert-Mosley called Lamberton to inquire about her daughter's injuries. The administration at Lamberton was unable to answer her questions. Mrs. Sibert-Mosley continued to call the school to ask what could be done to keep her daughter safe. She did not receive any information about the source of N.S.'s injuries, or the steps the District could take to ensure her safety.

16. After one month of continuous injuries from school, Mrs. Sibert-Mosely and N.S. met with Principal Pamela Redmond and Mr. Alexander, a member of Lamberton's administrative staff, to discuss N.S.'s injuries.

17. Mrs. Sibert-Mosley showed N.S.'s wounds to Principal Redmond and Mr. Alexander. Both administrators asked N.S. who had harmed her. N.S. gave Principal Redmond and Mr. Alexander the names of students who had targeted her.

18. Principal Redmond and Mr. Alexander told N.S. and Mrs. Sibert-Mosley that their concerns would be addressed. The administrators did not describe how and when that would happen.

19. Shortly after the October 2017 meeting, Mrs. Sibert-Mosley visited Lamberton again to request an update on the District's actions regarding keeping N.S. safe in school. Mr. Alexander directed Mrs. Sibert-Mosley to leave the school immediately. Mrs. Sibert-Mosley left.

20. Following the 9 October 2017, Mrs. Sibert-Mosely sent an email to Mr. Kevin Floyd, the Dean at Lamberton, again asking for an update.

21. Mr. Floyd emailed Mrs. Sibert-Mosely. He reported that the matter had been resolved.

22. Despite Mr. Floyd's claims, Mrs. Sibert-Mosley saw that N.S. was still afraid to go to school and continued to come home with injuries.

23. On 10 October 2017, Ms. Sibert-Mosely filed a Bullying and Harassment Reporting and Investigation form ("the Bullying Report") with the District.

24. With the Bullying Report, Mrs. Sibert-Mosely attached a journal that N.S. had been keeping. The journal described boys in school calling her a "bitch", saying that she was ugly, and slut-shaming her.

25. The Bullying Report specified that District personnel would follow up with Ms. Sibert-Mosley within 10 days.

26. More than ten days passed. The District did not follow up with Ms. Sibert-Mosley.

27. Mrs. Sibert-Mosely then visited the District administration building to request information about the District's efforts to keep her daughter safe.

28. While the District employees did not have information to relay to Mrs. Sibert-Mosley, they contacted the administration at Lamberton to request additional information.

29. As the District continued to take no action on the bullying complaint, N.S. continued to report that other students hit and kicked her, verbally harassed her in class, and targeted her for inappropriate sexual jokes and questions.

30. On 23 December 2017, N.S. came home with a bruise on her scalp. Another student had pulled her hair out of her head.

31. Because Mrs. Sibert-Mosely had been ordered off the grounds by Mr. Alexander when last she visited Lamberton to ask that the District protect her daughter, Mrs. Sibert-Mosley continued to go to the District administration building to report bullying. Mrs. Sibert-Mosely visited the District administration building on a weekly basis.

32. On 12 March 2018, Mrs. Sibert-Mosely received a call from the school nurse stating that one of N.S.'s classmates scratched her on the face with scissors.

33. Mrs. Sibert-Mosely emailed Mr. Kevin Floyd to remind him that she filed a bullying and harassment report. She also asked about the scratch on N.S.'s face.

34. Mrs. Sibert-Mosely also emailed Ms. Samonia Henderson, Family Engagement Liaison for the District, about N.S.'s injuries and her concern for N.S.'s safety.

35. Mr. Floyd responded to Mrs. Sibert-Mosely. He directed her to Wendy Goldberg, the school's counselor, and Principal Pamela Redmond.

36. Ms. Henderson responded and asked to speak with Mrs. Sibert-Mosely. After Ms. Henderson and Mrs. Sibert-Mosely spoke, they called Principal Redmond together.

37. Principal Redmond assured Mrs. Sibert-Mosely that the school would address her concerns regarding her daughter's safety.

38. That night, Mrs. Sibert-Mosely found N.S. in the bathtub crying. N.S. was saying she wished she was dead instead of alive. She said a boy spoke to her about rape in school. Mrs. Sibert-Mosely asked N.S. if she had reported it to a teacher, and learned that N.S. had: she had reported it to Mr. Higgins, one of the teachers.

39. N.S. begged Mrs. Sibert-Mosely to allow her to stay home from school.

40. The next day, on 13 March 2018, Mrs. Sibert-Mosley emailed Wendy Goldberg. Mrs. Sibert-Mosely told Ms. Goldberg about the information she learned the night before, and informed Ms. Goldberg that N.S. would not be attending school that day.

41. Ms. Goldberg remarked to Mrs. Sibert-Mosely that N.S. seemed cheerful in school, and that she saw a "completely different [N.S.]" than the one Mrs. Sibert-Mosely continued to contact the school about. Ms. Goldberg forwarded the exchange to Mr. Higgins.

42. Mr. Higgins denied being told about the comment made to N.S.

43. Mrs. Sibert-Mosely asked Ms. Goldberg and Mr. Higgins about the Bullying Report and N.S.'s journal, which had been submitted to the school approximately five months prior.

44. The District employees remarked that they had reviewed the journal. They said only that "supports were offered" to N.S. But when asked for details about those supports, the District employees could not describe what they were, who provided them, whether N.S. used them, or how N.S. responded to them.

45. N.S. continued to experience verbal, physical, and sexual harassment from the students at Lamberton. The District did not send Mrs. Sibert-Mosely any information about what it had or would do to address the harassment.

46. In May 2018, Mrs. Sibert-Mosely discovered that N.S. took explicit pictures and videos of herself and sent them to an adult man. This was unprecedented for N.S.

47. Mrs. Sibert-Mosely, who was concerned that N.S. was changing her behavior based on the traumatic, sexuality-focused abuse she was experiencing in school, filed a police report. She then withdrew N.S. from Lamberton and placed her in another school in the District.

48. Since her experience at Lamberton, N.S. has developed symptoms of depression and anxiety, as well as aggression toward peers and adults.

49. N.S. is currently receiving therapy to address her symptoms. Although N.S. no longer attends Lamberton, teachers in N.S.'s current school remark that she is aggressive toward other students, can become upset or agitated in class, and fails to follow directions at times. N.S. never exhibited any such behaviors prior to the bullying she suffered at Lamberton.

COUNT I
20 U.S.C. § 1681, et seq. (Title IX)
Hostile Environment – Sexual Harassment and Discrimination
(against Defendant School District of Philadelphia)

50. Plaintiffs hereby incorporate each allegation in the preceding paragraphs of this Complaint as if set forth in full herein.

51. At all relevant times, the specific acts of bullying and harassment, including, *inter alia*, the other students' spreading of sexual rumors, references to rape, and the epithet "bitch," were based on N.S.'s sex.

52. As described more fully throughout the Complaint, and at all relevant times, this sex-based bullying and harassment created a hostile environment for N.S., because it was

sufficiently severe, pervasive, and objectively offensive so as to interfere with or limit N.S.'s ability to participate in or benefit from the services, activities, or opportunities offered by the District.

53. As described more fully throughout this Complaint, at all relevant times the District, including the Defendants Alexander, Goldberg, and Redmond, knew or should have known about the hostile environment that existed for N.S. at Lamberton.

54. As described more fully throughout the Complaint, at all relevant times the District, including Defendants Alexander, Goldberg, and Redmond, failed to investigate and respond immediately and appropriately in a prompt, thorough and impartial manner and failed to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

55. At all relevant times, the District, including Defendants Alexander, Goldberg, and Redmond, had actual knowledge of the discrimination alleged herein.

56. At all relevant times, Defendants Alexander, Goldberg, and Redmond were officials of the School District of Philadelphia with authority to take corrective action to end the discrimination alleged herein.

57. At all relevant times, the District, including Defendants Alexander, Goldberg, and Redmond, intentionally and deliberately failed to take corrective action to end the discrimination alleged herein.

58. As a result of the failure of the District, including but not limited to Defendants Alexander, Goldberg, and Redmond, to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environments and its effects, and prevent the harassment from recurring:

- a. N.S. suffers from depressive symptoms;
- b. N.S.'s behavior has declined in school, and N.S.'s teachers report that she is aggressive, defiant, and frequently perturbed in class;
- c. N.S. has experienced suicidal ideation;
- d. N.S. has had to leave her previous school;
- e. N.S. has begun to exhibit dangerous behaviors of a sexual nature, such as taking pictures and videos of herself for an adult man.

WHEREFORE, N.S. respectfully requests Judgement in her favor and against Defendants named in this Count providing N.S. with compensatory damages, costs and attorneys' fees, and any and all other relief deemed just and equitable by this Court.

COUNT II
42 U.S.C. § 1983
U.S. Constitution – Fourteenth Amendment – Substantive Due Process
(against all Defendants)

59. Plaintiffs hereby incorporate each and every allegation in the preceding paragraphs of this Complaint as if set forth in full herein.

60. At all relevant times, each Defendant named in this Count acted under color of state law.

61. As described throughout the Complaint, each Defendant named in this Count knowingly and intentionally deprived N.S. and Mrs. Sibert-Mosley of well-established federal rights.

62. As a direct result of the failure of each Defendant named in this Count to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring, N.S.'s mother suffers and continues to suffer severe emotional distress accompanied by physical manifestations

thereof, including, *inter alia*, depression, anxiety, sleep disturbances, financial losses, and other ongoing mental, physical and emotional harm.

63. As described throughout the Complaint, policy makers for the District, including but not limited to Defendants Alexander, Goldberg, and Redmond, established and maintained policies, customs, and practices of the District that affirmatively contributed to N.S. being deprived of her clearly established, constitutionally protected liberty interest in bodily integrity, specifically, the right to be free from the abuse and injuries described herein.

64. Among the policies, customs, and practices that affirmatively contributed to these deprivations were:

- a. The policy makers' intentional decisions to minimize and ignore the sexual harassment and other bullying and failing to meet their legal obligation to take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring;
- b. The policy makers' intentional decisions to refuse to take appropriate disciplinary action against the students perpetrating the harassment, and instead insisting that Plaintiffs' assertions were untrue;
- c. The policy makers' intentional decisions to allow the bullying and harassment to continue unabated without adequately training the District's staff on how to identify and address bullying and harassment in school;
- d. The policy makers' intentional decisions to impose only the most minimal and ineffective remedial measures to address the bullying and harassment, rather than to escalate the punishments and other remedies as required by the District's own policy and by law when the lesser measures had clearly failed;
- e. The policy makers' intention decision to delay and frustrate the Bullying Report process by asking Mrs. Sibert-Mosley to leave Lamberton and consistently failing to provide Mrs. Sibert-Mosely with requested information.

65. As described in this Complaint, policy makers for the District, including Defendants Alexander, Goldberg, and Redmond, had actual knowledge of the prior and ongoing deprivations to N.S.'s clearly established constitutional and federal statutory rights.

66. As described in the Complaint, policy makers for the District, including Defendants Alexander, Goldberg, and Redmond, acted with deliberate indifference in response to their actual knowledge of the prior and ongoing deprivations to N.S.'s well-established constitutional and federal statutory rights.

67. As described in the Complaint, at all relevant times the acts and omissions of each Defendant named in this Count were outrageous and due to reckless indifference for N.S.'s and Mrs. Sibert-Mosely's rights and so outrageous as to demonstrate willful, wanton, or reckless conduct.

WHEREFORE, N.S. respectfully requests Judgement in her favor and against Defendants named in this Count providing N.S. with compensatory damages, costs and attorneys' fees, and any and all other relief deemed just and equitable by this Court including, but not limited to, additional training, policy adjustments, requiring that the District enforce its bullying policies.

COUNT III
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(against Defendants Alexander, Goldberg, and Redmond in their individual capacities)

68. Plaintiffs hereby incorporate each and every allegation in the preceding paragraphs of this Complaint as if set forth in full herein.

69. Defendants, as educators who took on the responsibility to promote N.S.'s growth and development as a person in all domains of her education, owed N.S. a fiduciary duty to act in a way to promote her best interests.

70. Defendants further had the contractual obligation to promote N.S.'s growth and development as a person in all domains of her education.

71. Defendants, given the special relationship between teacher and student and their contractual obligations, knew or should have known that their carelessness towards N.S. could cause her severe emotional harm.

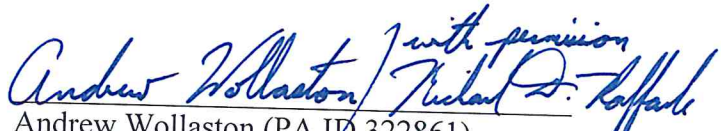
72. Defendants nonetheless subjected N.S. to repeated indignities, humiliations, verbal abuse, belittlement, slander, and retaliation for her exercise of her Fourteenth Amendment due process rights.

73. The maltreatment of N.S. caused her to suffer significant emotional distress, including the need for psychotherapy, depression, anxiety, aggression, sexually promiscuous behavior, and school avoidance.

WHEREFORE, N.S. respectfully requests Judgement in her favor and against Defendants named in this Count providing N.S. with compensatory damages, costs and attorneys' fees, and any and all other relief deemed just and equitable by this Court.

Respectfully submitted,

Dated: 22 August 2019


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