

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

**SCOTT C. by and through his Next Friend Ms.  
Melissa C.; MELISSA C.; MILES M. by and  
through his Next Friend Ms. Rio M.; RIO M.;  
METROPOLITAN CONGREGATIONS  
UNITED; EMPOWER MISSOURI,**

Plaintiffs,

v.

**RIVERVIEW GARDENS SCHOOL  
DISTRICT; MISSOURI DEPARTMENT OF  
ELEMENTARY AND SECONDARY  
EDUCATION (DESE); DONNA CASH, in her  
official capacity as Homeless State Coordinator  
for DESE; GAVIN ALLAN, in his official  
capacity as Director of DESE's Civil Rights  
Compliance; ROGER DORSON, in his official  
capacity as Interim Commissioner of  
Education; STATE BOARD OF EDUCATION;  
O. VICTOR LENZ, JR., MICHAEL W.  
JONES, PETER F. HERSCEND, CAROL  
HALLQUIST, and CHARLES W. SHIELDS,  
in their official capacities as Members of the  
Missouri State Board of Education; SPECIAL  
ADMINISTRATIVE BOARD; LYNN  
BECKWITH, JR., VERONICA MORROW-  
REEL, and MARK TRANEL, in their official  
capacities as Members of the Special  
Administrative Board; SCOTT SPURGEON, in  
his official capacity as Superintendent of  
Riverview Gardens School District; CHAKETA  
RIDDLE, in her official capacity as Riverview  
Gardens Associate Superintendent of Schools,  
Community, and Student Support Services; and  
ANDREA WOODS, in her official capacity as  
Riverview Gardens Homeless Coordinator,**

Defendants.

Case No. 18-4162

## **INTRODUCTION**

1. Public education is the engine of the American dream. It represents the chance for all children to get the knowledge and skills necessary to achieve their goals, fulfill their potential, and live productive lives. For children experiencing homelessness, the promise of public education could not be more critical. Homeless children live each day in economic uncertainty, wondering if they will have to find a new place to stay or if they will get enough to eat that day. School, for these children, is a place of hope and stability. School promises to give them the skills they need to help to lift themselves and their families out of the dire circumstances that led them to homelessness.

2. The Riverview Gardens School District and the State of Missouri, which has run Riverview Gardens for over a decade, have long and systematically failed to give homeless children the opportunity to obtain the education to which they are entitled and which they so desperately want and need. For year after year the District has barred or impeded homeless students from getting a foot in the schoolhouse door. By barring enrollment or delaying it by weeks or months, by refusing or delaying necessary transportation to students, by failing to provide the academic and socioemotional supports that these students need, by pushing them into alternative on-line schools with no teachers, and by employing policies and practices of exclusionary discipline with a discriminatory impact on homeless students, the District has deprived homeless students of weeks, months, or even years of their education. When homeless students are not provided the necessary supports to give them access to education, they are more likely be pushed out of school into the juvenile or criminal justice system.

3. Two homeless Black students and their mothers, along with two community organizations—Metropolitan Congregations United (MCU) and Empower Missouri—bring this

lawsuit to hold the State and District accountable for the decades of disinvestment and resulting educational disparities for homeless students in the Riverview Gardens School District. These blameless and extraordinarily resilient children seek only to be afforded the same opportunities as other children their ages receive, opportunities the District is required to provide by law. The barriers erected by Defendants are severe and obvious even to children and stigmatize them in ways that will affect their self-image and future prospects for years to come. The message to these children could not be more clear: homeless children are not wanted in Riverview Gardens schools because they are a burden, unworthy of an education, and less capable of learning than other children.

4. These practices represent flagrant violations of the McKinney-Vento Act, the federal statute designed to ensure that “each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education . . . as provided to other children and youths,” and that students experiencing homelessness have “an opportunity to meet the same challenging State academic standards to which all students are held.” 42 U.S.C. § 11431(4). The McKinney-Vento Act includes specific requirements to ensure that homelessness does not constitute a barrier to education for these children by requiring immediate enrollment, transportation, full participation in all school activities including extra-curricular sports, an evaluation of policies and practices that prevent homeless students from accessing their education, and school services they need to succeed. It is the State’s clear responsibility to monitor and ensure the District’s compliance with the Act, 42 U.S.C. 11432(f)(6), and it has turned a blind eye to the District’s numerous violations. The McKinney-Vento Act and its requirements are well known to the State and District, and the blatant violation can only be understood to be purposeful.

5. Those homeless students who do manage to get into the schoolhouse are barred in other ways from meaningful access to an education. Students experiencing homelessness are affected by trauma that stems from repeated exposure to the extreme stress of constant instability, the lack of basic necessities, inadequate and precarious living conditions, exposure to persistent violence, family separation through incarceration, racism and discrimination, and other sources of dysregulation. Homeless students are highly likely to be exposed to trauma, which, without intervention, can cause serious harm to the educational success and emotional well-being of these young people. Education, mental health, and medical research have established that, without appropriate interventions, complex trauma can have a devastating effect, including among children who do not exhibit symptoms sufficient to merit diagnosis of a clinically significant trauma-related disorder. For example, exposure to two or more traumas makes a student 2.67 times more likely to repeat a grade or be disengaged with school, even after controlling for factors such as race, socioeconomic status, and health.<sup>1</sup> Experts agree that to effectively provide meaningful access to students whose learning is impaired by complex trauma, access to an individualized plan is insufficient. Rather, schoolwide trauma-sensitive practices must be implemented to create an environment in which students are able to learn.

6. The Riverview Gardens School District and the State of Missouri have failed to provide students whose learning is impaired by complex trauma with this reasonable accommodation. Instead of providing a trauma-sensitive environment that facilitates recognition and accommodation of the predictable manifestations of trauma-impacted students and permits those students to participate in school academically and socially, the District engages in practices

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<sup>1</sup> Christina D. Bethel et al., *Adverse Childhood Experiences: Assessing the Impact on Health and School Engagement and the Mitigating Role of Resilience*, 33:12 Health Affairs 2106, 2111 (2014).

that not only fail to support those children but re-traumatize them: students are suspended for behaviors as minor as shrugging their shoulders, children are restrained and handcuffed to be taken to the office, and armed law enforcement officers have chased children down the hallway of their schools, to name but a few examples.

7. Defendants are obligated under the McKinney-Vento Homeless Assistance Act, among other obligations, to ensure that students are immediately enrolled in school, are provided transportation, can participate fully in school activities, are not segregated from the mainstream environment because of their homelessness, and receive the school services they need to succeed. The Act also requires Defendants to “review and revise” any “laws, regulations, practices, or policies” that “may act as a barrier to the identification of, or the enrollment, attendance, or success in school of, homeless children and youths.” 42 U.S.C. § 11431(2). Instead of complying with the federal law, Defendants have long erected barrier after barrier to the success of homeless students in the District by making enrollment nearly impossible, withholding or delaying transportation, unenrolling students without notice, pushing them into alternative education environments, and engaging in other practices that deprive them of education. The District’s policies and practices of punitive discipline and the use of suspension and restraints have disproportionate effects on students experiencing homelessness, who require a trauma-sensitive school climate in order to have equal access to an education.

8. Schools are also obligated under the Rehabilitation Act and the Americans with Disabilities Act to accommodate students who are being denied benefits of educational programs solely by reason of experiencing “complex trauma”—the physiological or neurobiological effects of a child’s exposure to multiple persistent sources of violence, loss, and other Adverse Childhood Experiences (also known as “ACEs”). Schools must intervene early and consistently

according to professional standards in order to ensure that trauma does not determine a young person's educational attainment and life chances.

9. Plaintiffs' allegations against Defendants are based upon information and belief.

## **PARTIES**

### **Plaintiffs**

10. **Plaintiff Scott C.** is a fifteen-year-old Black student who has attended school in the Riverview Gardens School District for most of his life and continuously since January 2012. Plaintiff Scott C. is legally required to attend school. As a result of a series of economic hardships, he and his family have been and are homeless and lack a fixed, adequate, and regular nighttime residence. The effects of the complex trauma Scott C. has experienced have impaired his access to public education, as described below in Paragraphs 29–51.

11. **Plaintiff Ms. Melissa C.** is the mother of minor son Plaintiff Scott C. She brings claims on her own behalf and on behalf of Scott C. As a result of a series of economic hardships, she and her family have been and are homeless and lack a fixed, adequate, and regular nighttime residence. Plaintiff Ms. C. is affected by, and has an interest in, Defendants' failure to provide reasonable accommodations for her son Scott C. and other homeless students in Riverview Gardens. Because of Defendants' failure to accommodate students suffering from complex trauma, Plaintiff Ms. C. exerts significant additional effort and experiences substantial emotional distress from observing the effects that unaddressed complex trauma has on her son's education.

12. **Plaintiff Miles M.** is a fifteen-year-old Black student who attended Riverview Gardens High School for ninth grade in the 2017-2018 school year and is legally required to attend school. As a result of a series of economic hardships, he and his family have been and are homeless and lack a fixed, adequate, and regular nighttime residence. The effects of the complex

trauma Miles M. has experienced have impaired his access to public education, as described below in Paragraphs 52–80.

13. **Plaintiff Ms. Rio M.** is the mother of Miles M. She brings claims on her own behalf and on behalf of Miles M. As a result of a series of economic hardships, she and her family have been and are homeless and lack a fixed, adequate, and regular nighttime residence. Plaintiff Ms. M. is affected by, and has an interest in, Defendants’ failure to provide reasonable accommodations for her son Miles M. and other homeless students in Riverview Gardens. Because of Defendants’ failure to accommodate students suffering from complex trauma, Ms. M. exerts significant additional effort and experiences substantial emotional distress from observing the effects that unaddressed complex trauma has on her son’s education.

14. **Plaintiff Metropolitan Congregations United (MCU)** is a non-profit, religious organization duly organized and existing under the laws of the State of Missouri. MCU operates as an organization of member congregations, organizations, and individuals throughout the St. Louis city and county region. MCU is an organization that focuses on improving the lives of people living in the St. Louis Metropolitan Region, particularly low-income individuals, by fostering community involvement and working to build structural racial equity. To achieve its goals, MCU advocates for policy changes at the community, city, and state levels, and is an active community organizer. MCU has an Education Task Force devoted to addressing education inequities in the St. Louis region. This task force dedicates time and resources to advocating for changes to school policies that disproportionately affect students of color. Among other activities, they organize and hold workshops on education equity issues in the region; actively participate in a School-to-Prison Pipeline Coalition with partner organizations in the St. Louis region; establish a “Break the Pipeline” campaign, specifically targeting school

districts and advocating for districts to end out-of-school suspensions and implement restorative justice practices as well as trauma-informed practices; and advocate for legislative changes at the state capital that will positively affect children in schools, among other initiatives. The interests of MCU, as well as the interests of its members and member organizations, are adversely affected by the actions and inactions of Defendants as alleged in this complaint, and MCU has diverted significant organizational resources to counteract Defendants' practices.

15. **Plaintiff Empower Missouri** is a not-for-profit organization, duly organized and existing under the laws of the state of Missouri. Empower Missouri conducts advocacy work in pursuit of two guiding principles: that all people in Missouri should have true access to quality healthcare, decent housing, adequate nutrition, and appropriate education; and all people in Missouri should be treated with dignity and fairness. Empower Missouri's work is grounded in the belief that the state of Missouri should fully fund, fully implement, and/or fully supplement state and federal programs for health and mental health services, housing and homelessness services, food assistance programs, and all levels of public education. Empower Missouri operates all over the state and has a dedicated St. Louis chapter to address issues particular to the St. Louis region. Empower Missouri devotes time, energy, and resources to issues related to homelessness, trauma, and education by engaging in community organizing, public advocacy, and educational programs to pursue its interests. Empower Missouri organizes advocates to address areas that relate to achieving basic fairness in Missouri and fulfilling the basic needs of Missourians. The interests of Empower Missouri, as well as the interests of its members and member organizations, are adversely affected by the actions and inactions of Defendants as alleged in this complaint, and Empower Missouri has diverted significant organizational resources to counteract Defendants' practices. Empower Missouri has regularly conducted



public education and advocacy about trauma and toxic stress since 2014 and has led advocates in public policy campaigns related to homelessness for decades.

**Defendants**

16. **Defendant Roger Dorson**, sued here in his official capacity as the Interim Commissioner of Education, is chief administrative officer supervising the Missouri Department of Elementary and Secondary Education (DESE) in accordance with policies, rules, and regulations established by the State Board of Education and by the Constitution and laws of the State of Missouri. Pursuant to Missouri law, section 161.122, Defendant Roger Dorson is responsible for visiting and supervising schools and for conferring with and advising school district officers and teachers on all matters pertaining to education law.

17. **Defendant Missouri Department of Elementary and Secondary Education (DESE)** develops and implements rules and regulations for the operation of public elementary and secondary education in Missouri pursuant to policies adopted by the State Board of Education. It is charged with the supervision of public schools, the distribution of financial aid to the public-school districts of the State, and with ensuring compliance with federal law including the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the McKinney-Vento Act.

18. **Defendant State Board of Education** is charged with the responsibility for carrying out the educational policies of the State of Missouri and for adopting rules and regulations for the supervision and administration of all local school districts, under Article IX, section 2(a) of the Missouri Constitution. Pursuant to Missouri Law, section 161.092, the Defendant State Board of Education is required to carry out the educational policies of the State, supervise instruction in the public schools, and oversee federal education programs and the distribution of federal funds to school districts.

19. **Defendants Charles W. Shields, O. Victor Lenz, Jr., Michael W. Jones, Peter F. Herschend, and Carol Hallquist**, sued here in their official capacities, are the members of the Missouri State Board of Education and are charged with carrying out the duties and responsibilities of the Missouri State Board of Education as required by law and with supporting the Constitution of the United States.

20. **Defendant Donna Cash**, sued here in her official capacity, is the Homeless State Coordinator for Missouri and a supervisor in DESE. The McKinney-Vento Act, section 11432(f), charges the coordinator with numerous responsibilities regarding the implementation of the State's McKinney-Vento plan, including but not limited to conducting monitoring of local educational agencies to ensure that they comply with the McKinney-Vento Act; providing technical assistance to local educational agencies; and providing professional development opportunities for local education agency personnel to assist them in identifying and meeting the needs of homeless children.

21. **Defendant Gavin Allan**, sued here in his official capacity, is the Director of DESE's Civil Rights Compliance and is charged with ensuring compliance with federal civil rights laws including Section 504 of the Rehabilitation Act and the Americans with Disabilities Act. Pursuant to Section 504 of the Rehabilitation Act, Title 29, section 794, and the Americans with Disabilities Act, Title 42, section 12101, Defendant Gavin Allan is responsible for ensuring that qualified children with disabilities are identified; provided a free, appropriate public education; are free from discrimination due to their disabilities; are provided procedural safeguards; and are allowed to participate in all activities that are also available for students without disabilities.

22. **Defendant Riverview Gardens School District** is a political subdivision of the State of Missouri pursuant to Article IV, section 13 of the Missouri Constitution. Defendant Riverview Gardens School District operates schools in the North St. Louis County and encompasses the surrounding areas of Riverview, Bellefontaine Neighbors, Moline Acres, Castle Point, Glasgow Village, Dellwood, and portions of Ferguson, Jennings and Unincorporated St. Louis County. The school district serves nearly 5,200 students at twelve sites, including nine elementary schools, two middle schools, and one high school. Riverview Gardens School District is headquartered at 1370 Northumberland Drive, St. Louis, Missouri, 63137. Riverview Gardens School District receives federal funds.

23. **Defendant Special Administrative Board** is granted the authority of the board of education for the operation of Riverview Gardens pursuant to Missouri Law, section 162.081, subsection 5. Defendant Special Administrative Board is responsible for assuring Riverview Garden's performance, adopting and evaluating policies, establishing goals and evaluating outcomes, and hiring and evaluating the superintendent and delegating all administrative responsibilities.

24. **Defendants Lynn Beckwith Jr., Veronica Morrow-Reel, and Mark Tranel**, sued here in their official capacity, are members of the Special Administrative Board and are charged with establishing goals and evaluating outcomes, adopting and evaluating policies, and the delegation of all administrative responsibilities, including hiring and evaluating the superintendent.

25. **Defendant Scott Spurgeon**, sued here in his official capacity, is the Riverview Gardens superintendent and is its chief executive officer, charged with carrying out the policies

and administrative duties of Riverview Gardens. Defendant Scott Spurgeon was appointed by the Special Administrative Board for Riverview Gardens.

26. **Defendant Chaketa Riddle**, sued here in her official capacity, is the Riverview Gardens Associate Superintendent of Schools, Community, and Student Support Services, charged with supporting the Office of Students in Transition and providing adequate social service and mental health supports to students.

27. **Defendant Andrea Woods**, sued here in her official capacity, is the Riverview Gardens Homeless Coordinator. Pursuant to the McKinney-Vento Act, section 11432(g), Defendant Andrea Woods is responsible for identifying homeless children and youth; ensuring they are immediately enrolled in, and have a full and equal opportunity to succeed in, school; ensuring they are provided transportation; ensuring dispute resolution conducted in accordance with the requirements of the McKinney-Vento Act; and ensuring that they are provided comparable services offered to other students.

### **JURISDICTION AND VENUE**

28. This court has jurisdiction over Plaintiffs' federal civil rights claims pursuant to 28 U.S.C. §§ 1331 because the matters in controversy arise under the Constitution and law of the United States. Venue is proper in this Court under 28 U.S.C. §1391(b) because State defendants are located in this District.

### **FACTUAL ALLEGATIONS**

#### **I. EXPERIENCES OF STUDENT PLAINTIFFS**

##### **Scott C.**

##### ***Housing History***

29. Plaintiff Scott C. is fifteen years old and currently enrolled in tenth grade at Riverview Gardens High School as a homeless student under the provisions of the McKinney-

Vento Act. He attended Riverview Gardens High School for ninth grade in 2017-2018, and he has attended schools in the Riverview Gardens School District for most of his life, including Moline Elementary School and Westview Middle School. Scott C. has attended District schools continuously since approximately 2011 or 2012. Scott C. qualifies for special education services and has an Individualized Education Program (IEP). Because of the District's failure to enroll immediately and transport Scott C. and repeated suspensions when he was in school, he missed approximately 115 out of 180 days of school in the 2017-2018 school year. Scott C. hopes to get a football scholarship to go to college, but he was not permitted to play football in ninth grade due to absences. Scott C. loves music and can play the saxophone, violin, piano, and guitar. If he cannot play professional football, he hopes to work as an electrician or a mechanic. He wants to make enough money so that he can take care of his mother and siblings, and buy a big house for all of them to live in.

30. In the past six years, Scott C., his older sister Lydia C., and his mother Ms. C. have repeatedly experienced homelessness. In the 2017-2018 school year alone, Scott C. and his family had to move at least three times after they lost their home within the boundaries of Riverview Gardens. Over several months, they slept first in the basement of a relative's two-bedroom house, sharing it with four other adults. Then they stayed with another relative in a two-bedroom house; Scott C. slept in the basement and Ms. C. and Lydia C. slept in the living room, while the three other adults slept in the bedrooms. The relative's landlord threatened to evict him because he was housing too many people, so Ms. C. moved them again so that her relative would not also lose his home. This time, they moved to a two-bedroom apartment rented by Scott C.'s older brother's fiancée Malia in a housing project in St. Louis City. They currently live there with Malia and her four children, all eight years old or younger.

31. Every night, Scott C. carries his mattress to the living room to sleep. For much of the 2018 summer, when temperatures rose to around 100 degrees, all eight of them would sleep together in the living room because it was the only room in the apartment with an air conditioner, although it frequently did not work. They were unable to get to cooling centers due to lack of transportation. The apartment has black mold from leaky pipes and other leaks, as well as mice, which the family has witnessed crawling on their mattresses as they sleep. Scott C. has asthma and the small children struggle to breathe as well. It is hard for Scott C. to focus on homework in the apartment because there are so many people. He does not have a computer either.

32. In May 2018, Malia was arrested at gunpoint for a probation violation in front of Scott C. and her young children. During the month Malia was incarcerated, Ms. C. watched her own children and her grandchildren. She had to go to food pantries and ask for help because she did not have enough baby formula or supplies for Malia's two-month-old baby.

### ***Enrollment and Transportation***

33. Riverview Gardens failed to immediately enroll Scott C. as a homeless student under the McKinney-Vento Act. In the fall of 2017, despite his mother's repeated requests to the District and the School, Scott C. was not enrolled in Riverview Gardens High School until early September, about a month after school started, with the result that he missed almost a full month of school and fell far behind in his academic work. Riverview Gardens also failed to arrange timely transportation for Scott C. to school when the family had to move during the year, despite multiple requests throughout the school year. To take just one example, when the family moved to stay with Malia in St. Louis City, it took nearly a month for transportation to be arranged, even with the assistance of a legal advocate, during which time Scott C. was not able to attend school. Ms. C. did not have a working car and could not afford to send Scott C. on the city bus which, in any event, would have taken at least an hour and a half to get Scott C.

to school. On one occasion, when Ms. C. was attempting to set up transportation for her son, she was not able to reach school officials by phone, and when she went to the campus in person to make the request, she was ushered off campus by law enforcement and a District Safety/Security Officer or School Resource Officer (collectively or severally “District Safety/Security Officer”) without having been able to make her request.

34. During the 2017-2018 school year, Scott C. was unenrolled from Riverview Gardens High School at least twice without notice, opportunity to use the McKinney-Vento dispute resolution process, or other opportunity to contest the unenrollment. During the periods when he was unenrolled, he did not receive special education services provided by the Special School District because they believed he was not enrolled at Riverview Gardens High School. Special School District officials called Ms. C. to set up IEP meetings for Scott C. Ms. C. explained that she needed help getting him back into school because no one from Riverview Gardens would respond to her requests. As a result, he was deprived of the Special Education Services to which he is entitled and did not have the required annual meeting regarding his IEP. Although his IEP is for a learning disability and a health issue that does not affect his athletics, Scott C. was placed into a physical education class with about seven special education students with severe physical and cognitive disabilities, instead of joining the physical education class with other boys his age. Scott C. was forced to walk by two groups of regular education students in the gym to get to this smaller group of special education students. This segregation made him feel embarrassed.

35. The District Homeless Enrollment Coordinator threatened Scott C. with unenrollment for missing more than 22 days of school, despite the fact that many of those

absences were due to the District's failure to provide transportation and/or reasons related to his homelessness.

36. Far from receiving supports that would help him succeed in school, Scott C. has been punished for behaviors connected to homelessness. For example, Scott C. has been punished for being tardy and absent, even when he is tardy or absent for reasons related to his homelessness. In one instance, Scott C. was suspended for two days for being one hour late to school resulting from a lack of transportation. When Scott C. is suspended, he is forced to return to whatever place he is staying and its deplorable conditions, compounding the deprivation of learning that he is experiencing. Scott C. was not permitted to play football because of absences and lack of credits that are related to his homelessness.

37. Because of the District's failure to enroll him and provide transportation, Scott C. missed so much school in 2017-2018 that he earned only 1.5 credits toward the 24 credits he needs to complete his freshman year. Ms. C. therefore requested that the District provide him compensatory education and transportation to summer school. In response to this request, Scott C. was assigned to an online program called ACE, with three different sites that students are sent to for credit recovery or full schooling. ACE operates for two to three hours per day and does not provide a full day of schooling. ACE does not provide students with the same engagement and support that a traditional classroom provides. In ACE classrooms, students are placed in front of a computer screen and expected to teach themselves. There is one certified teacher in every classroom, but students are working through a variety of subjects, and the teacher generally does not have appropriate expertise in the actual subject matter the students are studying. Scott C. struggles to learn anything in this program because there is no instruction and he has a learning disability. The District never responded to Ms. C.'s request for compensatory



education, so Scott C. was not provided with any compensatory education for the days he missed during the 2017-2018 school year due to the District's failure to enroll him and provide transportation, nor was he provided with compensatory special education.

### ***Trauma and Academics***

38. Scott C. has endured multiple additional Adverse Childhood Experiences (also known as ACEs), which have physiological and neurobiological impacts on child development and interfere with an individual's ability to carry out basic life activities necessary to access education, including learning, thinking, reading, concentrating, and communicating. This "complex trauma"—the cumulative effect of exposure to multiple or particularly acute childhood trauma—is not limited to a discrete incident, but consists of long-term, repeated, ongoing, and overlapping stressors.

39. In addition to homelessness, housing insecurity, and socioeconomic hardship, Scott C. has directly experienced gun violence. In the summer of 2017, just before starting ninth grade, Scott C. was riding in a car with his older brother and his toddler nephew when another car pulled up next to them and shot at them. Scott C. covered his nephew's body with his own to shield him from the bullets. His brother lost control of the car and it crashed into the concrete barrier on the side of the road and spun out. Scott C. managed heroically to protect his little nephew, but he himself was shot in the mouth. His nephew started crying when he saw the blood on Scott C.'s face. The bullet had to be surgically removed, and Scott C. continues to have problems with his teeth. Ms. C. has wanted to get him to a dentist, but this has been delayed for many months due to the family's lack of consistent transportation. Upon his return to school after this injury, Scott C. was not offered any counseling, therapy, or other mental health services.

40. Scott C. is not the only member of his family to have been shot; an older cousin of his, who was Scott C.'s best friend, was shot and killed on May 31, 2018. His eight-year-old nephew was hit by a stray bullet while going into a convenience store near their housing project. Scott C. feels that people he cares about keep getting hurt and dying, and he is tired of the repeated experience of losing people who are close to him.

41. Scott C. has repeatedly witnessed gun violence. For example, in June 2018, Scott C.'s nephews aged eight and three were on the playground outside the apartment when two men began shooting guns about twenty feet away. Scott C. and his mother ran outside towards the gunfire to hurry the children inside. A few years ago, a little girl was shot and killed on that same playground while playing. Scott C. and his family hear gun shots almost every night; one night in July 2018, they heard forty to fifty gunshots in a single night. Earlier in the summer, a man was shot and killed just a few streets away from Malia's apartment. As a result of these experiences, Scott C. is scared and anxious to go outside.

42. Scott C. has also had to witness scenes of aggressive, armed police activity involving his own family members. Scott C. had to witness his brother being arrested in April 2018. His brother was dropping Scott C. and his sister off at a store. Just after Scott C. and his sister got out of the car, a police officer pulled up and tried to make Scott C.'s brother get out. The officer was pulling on the locked car door to try to get Scott C.'s brother out of the car, and when the brother unlocked the door, it hit the officer in the face as she was pulling on it. The officer then shot Scott C.'s brother with a taser right in front of Scott C. and shot her gun in the air as his brother proceeded to drive away. Scott C. was terrified because two of his little nephews were still in the car with his older brother. More police cars arrived and chased his brother. Scott C. later learned that the police cars rammed into his brother's car. The baby's car

seat was hurled out of the car and the baby flew onto the dashboard, miraculously uninjured. Scott C. knows that his brother gets into trouble a lot, but he really misses him now that he is incarcerated.

43. This is not the only arrest Scott C. has witnessed of someone close to him. In May 2018, in the early morning, approximately ten police officers came to the apartment where he was staying. They woke the whole family around 7:30 a.m. and came into the house with large assault rifles drawn and with their fingers on the triggers to arrest his brother's fiancée Malia. Scott C. was afraid that they might shoot him. Malia assured the officers that she would go with them quietly if they did not put her in handcuffs in front of Scott C. and her children, all under the age of 8, but they handcuffed her nonetheless and dragged her away in the presence of Scott C. and her own young children, who were screaming and crying. During the encounter, a police officer grabbed Ms. C.'s phone out of her hand because he thought she was recording him. Scott C. told the officer to leave his mom alone, and the officer threatened to arrest Scott C. as well. This experience left Scott C. scared and angry.

44. These incidents of violence are traumatic not only because Scott C. has repeatedly witnessed and experienced violence, but also because they have resulted in separation from people he loves and trust, through death or incarceration.

45. The school environment also exposes Scott C. to traumas that resemble those that he experiences outside of school. The high school has approximately five District Safety/Security Officers and approximately two police officers with guns and tasers who regularly sweep the hallways for students who are not in class and send them to the lunch room. Any students who are sent to the lunch room three times are suspended. Scott C. would see students fighting in the hallways regularly and teachers consistently yelling at students in their

classrooms. When District Safety/Security Officers break up fights, they sometimes use metal handcuffs to restrain students. Scott C. experienced one lockdown when there had been a killing at a house near the school. The lockdown lasted an extremely long time, so students started wandering freely out of the classrooms and into the hallways and library.

46. In middle school, when Scott C. was having a verbal argument with another student, the District Safety/Security Officer chased him, pressed his head up against the glass window, and put him in handcuffs. Scott C. has also been subjected to invasive searches. One time during the 2017-2018 school year when a teacher appeared to him to be lecturing a student in the hallway, Scott C. passed by and gave the student a “high five” to show moral support, and as a result he was taken into the office where an officer patted him down, reached into his pockets, and required him to take off his pants. The police officer did not find anything.

47. Scott C. is frequently subjected to bullying at school because of his learning disabilities.

48. Because Riverview Gardens does not have a system of accommodations and modifications to address the impact of complex trauma, Scott C. has not been able to access his education. Due to unaddressed trauma, Scott C. has difficulty focusing and learning in school. He often acts out as the “class clown,” or he responds in a dysregulated way to other students, leading to fights or disciplinary citations. He has not been offered counseling or other mental health supports to address these incidents and to help him succeed in school. Scott C. was also not offered academic support. Instead of receiving the additional help that he needed, he was mostly given worksheets to do. He would take his worksheets to the band room to complete because the chaotic classroom environment prevented him from focusing. Scott C. sometimes completed his worksheets, mostly without help from teachers, and spent time practicing different

musical instruments in the band room. The only supplemental academic support program that Scott C. was offered was the ACE credit recovery program over the summer, which includes minimal interaction with an instructor and is insufficient to remediate his lost education. Scott C. was being bullied by students at the ACE Program, and in response the Principal tried to put him on homebound instruction. Homebound instruction is typically an arrangement by which a student meets a tutor for one hour per day of instruction at a public place, such as a local library. Without transportation, Scott C. would not be able to get to the library for homebound instruction; in fact, previous times when Scott C. was placed on homebound instruction, he had difficulty attending due to homelessness and lack of transportation. When the ACE principal suggested homebound this time, Ms. C. refused because they do not have a computer or internet and cannot get to a library easily. Instead, Scott C. was moved to another ACE site.

49. Instead of providing Scott C. the reasonable accommodations he needs, he has been subject to exclusionary discipline. For example, in January 2018, Scott C. was suspended for five days for allegedly bullying other children. That suspension was extended to 20 days. At the end of the 20 days, Ms. C. phoned the school to try to get Scott C. transportation to school but was unable to get a response. Scott C. ended up missing 73 days of school because he was not provided transportation. During that time, Scott C. was stuck at the house with nothing to do besides watch TV, and he fell very behind in school.

50. Despite Scott C.'s acute need for additional and more intensive support, no Riverview Gardens school has ever provided him with or referred him to mental health services. Although Scott C. has only had one year in high school, Riverview Gardens, rather than providing him with meaningful accommodations and modifications, has already suspended and unenrolled him from school multiple times.

51. As a result of Defendants' failure to establish a system to deliver specialized instruction, related services, and accommodations necessary to address the impact of adversity and complex trauma on Scott C.'s ability to learn, read, think, concentrate, and/or communicate, Scott C. has been deprived of meaningful access to the benefits of a public education.

**Miles M.**

***Housing History***

52. Plaintiff Miles M. is fifteen years old and recently completed ninth grade at Riverview Gardens High School. He currently qualifies as a homeless student under the McKinney-Vento Act and qualified as a homeless student under the McKinney-Vento Act during his ninth grade year at Riverview Gardens High School. Miles M. attended Riverview Gardens High School in ninth grade, and prior to that attended school elsewhere in the state. Miles M. lives with his mother Ms. Rio M., Ms. M.'s 73-year-old mother, who has Alzheimer's disease, and sometimes with his seventeen-year-old sister Molly M. and her infant son Love M. Molly M. suffers from mental health issues. During the 2017-2018 school year, as a result of Riverview Gardens' failure to enroll him immediately and provide transportation, Miles M. missed approximately eight weeks of school and his sister Molly M. missed most of the year.

53. Miles M. enjoys learning and aspires to work in scientific technology. Miles M. has continuously helped his mother with caring for his grandmother with Alzheimer's disease, making sure that she does not put herself in danger and sitting with her while she is eating. He also helps care for his infant nephew when the baby is living with them. Miles M. is ambitious and hopes to attend an Ivy League school to challenge himself. In his previous schools, Miles M. was an honor roll student. His favorite class is physics, and he hopes to study technology some day, possibly video game design. He did not have a discipline record and did not get in

trouble in school prior to attending Riverview Gardens. He had friends and enjoyed running track.

54. Miles M.'s mother is extremely supportive and loving and encouraged him to do well in school. His stepfather, however, was abusive to her and to Miles M. For example, one day when Miles M. forgot to do a chore, his stepfather took leftover cooking oil and poured it on his bed while he was sleeping. He would also lock Miles M. and his sister into their bedrooms at night while they were sleeping. Once he tackled Miles M. to the ground in anger and broke Miles M.'s glasses. Miles did not trust him and did not want to be in the house with him.

55. Miles M. and his family moved to the St. Louis region after his abusive stepfather left their family and his mother lost her job. In the summer of 2017, Ms. M. decided to move the family to the St. Louis region in the hopes of finding a well-paying job that would allow her to support her children and also in order to evade her husband, who continued to try to harass her. At first, Miles M., his mother, his grandmother, and his then sixteen-year-old sister who was four months pregnant at the time, stayed with a friend of Ms. M.'s who allowed them to stay in his two-bedroom house, located within the Riverview Gardens School District. Miles M.'s grandmother slept on an air mattress in the second bedroom. Miles M. slept on the couch in the living room. Molly M. sometimes shared a bed with her mother and sometimes slept on the other end of the couch with Miles M.

56. While Molly M. was in the hospital giving birth in October 2017, Ms. M.'s friend told her that the family could no longer stay with him. In October and November 2017, the five of them, now including Molly M.'s infant son, Love M., stayed in several different places before ending up in a motel where they stayed from approximately December 2017 to May 2018. The motel room had one queen-size bed. Ms. M. and her mother slept in the bed and Miles M. slept

on an air mattress near the bed. Molly M.'s son Love M. was born in late October 2017, and he also lived with them in the motel room. There was a bassinet in the motel room for Love M. The motel room had no refrigerator, stove, or space to make food, and there was no electricity in the kitchen area, so they had to put the microwave and mini-fridge in the sleeping area. As a result, they ate mostly fast food. The room was cramped and cluttered. The motel room was located in an area where criminal activity is prevalent, including prostitution and the sale and use of drugs. Ms. M. was often asked if she was "working" and if so, "how much," and she was offered drugs for sale at least once a week. Miles M. often witnessed drug use among the motel guests and on one occasion, heard another motel guest threaten his sister Molly, saying that a man with a gun would shoot her. He rushed out to protect Molly when he heard this threat.

57. The motel room was very crowded. The newborn baby would wake everyone up at night by crying, and any time anyone got up during the night, they would wake each other up. People would knock on their door during the night asking for money or cigarettes. Molly M. ended up leaving the motel because there was so little space. When she left, Miles M. was very worried about her. He felt depressed because of the living situation, having no space to himself, and worrying about where they were going to live and get food in the future. This compounded his sadness over having to leave all his friends from his previous school.

58. Ms. M. was working twelve-hour night shifts five or six nights a week. She would get back to the motel at about 5:30 am. She would be gone in the evenings, so Miles M. would often take care of his grandmother and the baby in the evenings after he got home from school. She now has a lower paying job that allows her to stay off her feet, because of a foot injury that was exacerbated during her previous job.



59. In May 2018, Miles M. moved with his mother and grandmother into a one-bedroom 520 square foot apartment where they are currently staying. Molly M. and Love M. sometimes stay there as well. The lease permits only one person to live there, and Ms. M. is behind on her rent. The front door does not close properly and Ms. M. worries that someone could break it down easily. The bedroom is being used to store many of their belongings from the last time they were permanently housed, and there is no room for a bed. Miles M.'s grandmother sleeps on an air mattress in the kitchen, and Ms. M. and Miles M. sleep on the sectional couch. There is a crib in the living room for Love M. Miles M. helps take care of his grandmother when Ms. M. is at work, making food for her, keeping her comfortable, and making sure she is safe.

***Enrollment and Transportation***

60. Ms. M. attempted to enroll Miles M. and Molly M. in Riverview Gardens High School in the summer of 2017, before the school year began. She phoned the school multiple times, but no one answered, and when she went in person she was turned away because she did not have an appointment. When, after approximately two or three weeks, she finally reached someone at the school, she was told that before her children could begin attending, she needed to produce a copy of the lease for her friend's apartment, his occupancy permit, one of his utility bills, a copy of her friend's ID, a copy of her ID, her children's immunization records, and a notarized letter stating that the family was staying with a friend. It took her about a week to assemble all of these documents, and the children were out of school in the meantime. By the time she had done so, in September 2017, school had been in session for several weeks and Miles M. and Molly M. had missed multiple weeks of school. During that time, Miles and Molly M. had nothing to do during the day, and had to stay in the crowded house where they had no

space to themselves. Miles M. was extremely stressed by not being in school. He likes to learn and wants to succeed.

61. While the family resided with the family friend in the Riverview Gardens School District, Miles M. would take the school bus to and from school. However, in October 2017, after Molly M. gave birth to Love M., the family was forced to suddenly relocate and stayed in various places outside of the District's boundaries. Consequently, Miles M. could no longer take the school bus to and from school. Ms. M. initially drove Miles M. to and from school when she could and asked for help from her father as well. Ms. M.'s car had been repossessed in September, so she had to borrow a car to get Miles M. to and from school and to drive to work. However, Ms. M. was unable to continue driving Miles M. to school when the car she had borrowed broke down soon after she borrowed it. During this time, Ms. M. requested transportation from the District, who referred her to the District's homeless coordinator, Andrea Woods. Ms. Woods told Ms. M. that Ms. M. would have to provide proof of residency to the school, despite Ms. M.'s representation that she did not have such documentation because she was in transition. When Ms. M. followed up again with Ms. Woods to press Ms. Woods on her son's rights as a homeless student, Ms. Woods responded by insisting that Ms. M. needed to fill out paperwork before the District would make any transportation arrangements and emailing Ms. M. the paperwork. Ms. M. did not have the ability to print the paperwork.

62. Riverview Gardens did not arrange transportation for Miles M. until the District was contacted by a representative from Legal Services of Eastern Missouri, and it did not begin to provide transportation until approximately December 18, 2018. By then, final exams were in session, and Miles M. had to take them even though he had missed about two months of the first semester because he was either not enrolled or had no transportation.

63. During the period when Miles M. could not get to school because he had no transportation, the District unenrolled him without his or Ms. M.'s knowledge. He was not provided any work during the period when he was not in school, nor was he provided any tutoring upon his return to help him prepare for the exams. He was offered online credit recovery "courses" during the second semester, but they consisted of self-guided assignments with no classroom instruction for one class period a day, which was insufficient to make up about two months of schoolwork. There was a long-term substitute teacher in the room who would often sleep during the class period and was not available to answer questions. Miles M. could not access the assignments on his phone or tablet from the motel, which prevented him from working on his makeup assignments at home. He finished his freshman year without enough credits.

64. Miles M.'s pre-AP History teacher was supportive and he felt that she cared about him. She tried to understand where he was emotionally and understood what he was going through, and she would collect the work he missed when he was absent and help him catch up.

65. When Miles M. was taking the bus from the motel, at first it was picking him up at 5:48 a.m. on a big street near the motel. Because of the criminal activity in the area, Miles M. always had to keep an eye out for danger while he was waiting for the school bus. It was cold and dark in the mornings during the fall and winter months. Miles M. was worried; he knew his mother was worried about his safety, and he was very protective of her, so this weighed on him even more. Ms. M. asked for the bus to pick Miles up in the motel parking lot, for his safety and so that he could hear the bus coming, but the request was not granted. At some point, the pick-up time was changed to 6:05 a.m. without notice to Ms. M. or Miles M. They did not find out that the time had changed until Miles M. had waited for twenty additional minutes in the dark

morning for the bus. Ms. M. attempted to contact Ms. Woods to ask whether the bus was coming, but she was not able to reach her. Sometimes the bus would arrive early and would not wait for him. One time he got right up to the bus, but the driver shut the door and drove off. When Miles M. missed the bus, he was not able to get to school.

66. In May 2018, when the family moved to a one-bedroom apartment, Ms. M. again requested transportation for Miles M. from Ms. Woods. Ms. Woods did not respond for several days, and when she did finally respond on or around May 21, 2018, she told Ms. M. that it was too late in the school year to update the pickup address and that if Ms. M. could not get Miles M. to the school, he could end his school year about a week early. Given that Miles M. had already missed so much of the school year, Ms. M. decided to drive Miles M. back to the stop near the motel, leaving around 5:30 a.m. so that he could catch the bus from there at about 6:00 a.m., but on or around May 22, 2018, the bus driver told Miles M. that he could no longer take that bus because he had moved. The next day, the bus did not come to the stop near the motel. Ms. M. contacted the District again requesting to maintain transportation for Miles M. near the motel. The bus did resume picking him up near the motel, where Ms. M. would have to drive him before 6:00 a.m. each morning.

67. On August 6, 2018, Ms. M. contacted Ms. Woods to inform her that Miles M. was still homeless and to request transportation for Miles M. for the new school year. Ms. Woods told her to enroll in the school district where Miles M. is currently staying. Ms. M. responded that Miles M. was still homeless because the apartment is too small for her family and they may be forced to leave soon, and that she wanted Miles M. to have consistent schooling even though their housing was unstable. Ms. Woods responded on August 9, 2018 that Miles M. would be placed at ACE due to his insufficient credits and failure to complete last year's programs. ACE

is an online program that lasts only 3 hours a day and is located at separate facilities from the High School. Students in ACE do not typically participate in any courses at Riverview Gardens High School, and ACE is the entire educational program for children placed in the program.

68. Miles M. joined the track team in January 2018, but Riverview Gardens did not provide him transportation back to the motel after track practice. The Homeless Coordinator Ms. Woods told Ms. M. that the District could not provide Miles M. transportation after practice because the buses needed to back by 6:00 p.m. each night, and that it was up to Ms. M. to arrange such transportation. Ms. M. paid the \$3 bus fare for each trip, which she could not afford, and she would occasionally choose to forgo meals to make sure Miles M. would be able to get between school and the motel. Miles M. had never taken public transportation before, and he would take the public bus in the dark, including several transfers. It took him about three hours and would get him back to the hotel around 8:00 p.m. Occasionally he was so tired that he fell asleep on the public bus and missed his stop. One time, there was a drunk man on the bus who fell and hit his head. Everyone had to get off the bus so that the blood could be cleaned up. The public bus stop near the school was in a dangerous area. One time, as he was walking to the public bus stop after school, Miles M. saw a man carrying a huge gun that looked like an AK-47. Miles tried not to call attention to himself, but the man kept staring at him until he got farther away. The station where Miles M. had to transfer buses had many robberies, and during the time when he was taking the public bus, there was a shooting right down the street from where the bus stop was.

69. Ms. M. was terrified for Miles M. to have to take the public bus at night, but she believed that track was his only emotional outlet and her choice was to ask him to forgo it or have him take the public bus.

70. Molly M. had to go on bedrest in mid-September 2017, just after she was finally enrolled in school. Due to her bedrest and the birth of her son, Molly M. was unable to return to school with Miles M. when transportation was finally arranged. She has not attended school since mid-September 2017. Before the end of the first semester, after Molly M. had given birth to her son, she went to the school to ask about additional school work and returning to school and was told not to return until the next semester.

71. Because his mother was working to support the family, and Molly M. was frequently not staying in the crowded, stressful motel room, Miles M. frequently had to spend time taking care of Love M., causing him to incur absences. In response to a counselor's inquiry about his absences, Miles M. explained that he often had to care for the baby. Around that time, after Molly M. had been out of school for about four months, a representative of the District called Ms. M. for the first time to ask if Molly M. would like childcare and if she would like to return to school. Although both Ms. M. and Molly M. responded affirmatively to both questions and gave them Molly M.'s contact information, the District representative did not follow up with Molly M. and did not leave a number.

### ***Trauma and Academics***

72. Miles M. has endured multiple additional Adverse Childhood Experiences (also known as ACEs), which have physiological and neurobiological impacts on child development and interfere with an individual's ability to carry out basic life activities necessary to access education, including learning, thinking, reading, concentrating, and communicating. This "complex trauma"—the cumulative effect of exposure to multiple or particularly acute childhood trauma—is not limited to a discrete incident, but consists of long-term, repeated, ongoing, and overlapping stressors.

73. Miles M. is and has been subject to severe trauma or toxic stress due to his homelessness and his living conditions. The bus that Riverview Gardens arranged for Miles M. initially picked him up every morning around 6:00 a.m., although school did not start until 7:30 a.m. Not only did Miles M. have to wake up around 4:30 or 5:00 a.m. to catch the bus, he also got little sleep because he, his mother, his grandmother, and his newborn nephew were sleeping together in one room. The baby would wake him up in the middle of the night, interrupting his already short night of sleep. Despite Ms. M.'s requests that the bus pick Miles M. up at the motel so that he would not have to wait in the dark at 6:00 a.m. on a dangerous street corner, the District refused to change the pick-up location. Because the bus came so early, Miles M. occasionally missed it. Miles M., although only a ninth-grader, demonstrated extraordinary resilience and took on significant responsibility at home well beyond his age, caring for the baby and his grandmother when his mother was away. Miles M. also had to endure the crowded motel room and dangerous environment around the motel. He lived in a constant state of stress and fear for his own safety and the safety of his family, along with the stress of not knowing if they would be able to afford a meal, their motel fees, or other necessities.

74. As a result of this ongoing stress, Miles M.'s academic performance significantly declined. He would arrive at school exhausted and anxious because of his living situation, unable to concentrate on his studies. Instead of being provided additional support such as academic support, substantive counseling, or other mental health supports, he was punished for behaviors related to his homelessness. He became depressed, moody, and at times defiant. Miles M. fell behind in credits because he missed so much school due to the District's failure to enroll him and provide transportation. Miles M. was then barred from competing with the track team because of his absences and school performance. Track was the only thing that was

providing him an emotional outlet, given the severe stress of his living environment. When he ran track, he stopped feeling overwhelmed by his living situation for a brief period. It was the only thing he looked forward to during the day. Track also allowed Miles M. to connect with other students and make friends. He was devastated when he was separated from the others on the team and not allowed to compete, and he lost his motivation to train and participate.

75. Miles M. was teased on numerous occasions by students for reasons relating to his poverty and homelessness, often in front of staff who did nothing to address the situation. For example, on multiple occasions, a student made fun of him for wearing the same shoes for several months, and because he did not have an iPhone or a gaming console. Miles M. has also been punished for behaviors related to his homelessness; for instance, when he responded verbally to students who were making fun of him for his poverty or for asking the teacher questions, he was kicked out of class. One of his teachers would kick him out of class at least once a week for similar behaviors.

76. Miles M. was also often taken out of classes for different periods of time (to either stand outside of the classroom for a few minutes or to sit in the principal's or counselor's office) as a form of discipline for minor infractions, such as not following instructions quickly enough. On one occasion, Miles M. had a headache and asked to go to the nurse, but his teacher accused him of wanting to leave class and sent him to the District Safety/Security Officer instead of the nurse. In order to avoid the stress of confrontations and chaos in the classroom, Miles M. would frequently put in headphones and listen to music as much as he could.

77. In addition to exposure to violence and stress out of school, Miles M. is subject to severe stress in school due to the highly policed environment that exacerbates and builds on the stress of homelessness and poverty. Miles M. feels like his high school is a prison. He has



witnessed a police officer armed with a gun and a taser tackle one of his fellow students onto the concrete in front of the school cafeteria and handcuff the student. District Safety/Security Officers frequently restrain students by grabbing their arms or shoulders and holding them on the ground. The school has had numerous lockdowns. One time Miles M. heard gun shots while he was on the school premises throwing a football. Students get into physical fights often multiple times a day, and some school staff curse at the students and call them names, like “big head,” “ugly,” or “goofy-looking,” or tell them that they “needed a smack upside the head.” Comments like these make Miles M. feel like students are bad and not welcome in the school.

78. Due to unaddressed trauma, Miles M. has trouble focusing, concentrating, and learning in school. Once an honor student, complex trauma has caused his grades to drop. He has become dissociated and depressed. He cannot focus in school, and he feels exhausted and depressed all the time. Sometimes he felt so exhausted that he could not get up for school. Other times, he would have to stay home to take care of the baby.

79. Because Riverview Gardens does not have a system of accommodations and modifications to address the impact of complex trauma, Miles M. has not been able to access his education. Despite Miles M.’s acute need for additional and more intensive support, no Riverview Gardens school has ever provided him or referred him to mental health services. No one except his pre-AP History teacher asked what he was going through or tried to understand his circumstances. A counselor once asked him about his absences but did not follow through with substantive support.

80. As a result of Defendants’ failure to establish a system to deliver specialized instruction, related services, and reasonable accommodations necessary to address the impact of adversity and complex trauma on Miles M.’s ability to learn, read, think, concentrate, and/or

communicate, Miles M. has been deprived of meaningful access to the benefits of a public education.

## II. ADDITIONAL FACTUAL ALLEGATIONS

### A. Segregation and Socioeconomic Inequality in the District

81. Due to decades of disinvestment and housing discrimination, the St. Louis Region is one of the most racially and economically segregated in the nation. Its schools follow suit. Figures 1 and 2. Eighty-five percent of residents in the community identify as Black,<sup>2</sup> and in 2017, 98.4% of the students identified as Black.<sup>3</sup>

Figure 1: Racial Segregation in St. Louis Region<sup>4</sup>

Figure 2: Racial Segregation in St. Louis Schools<sup>5</sup>

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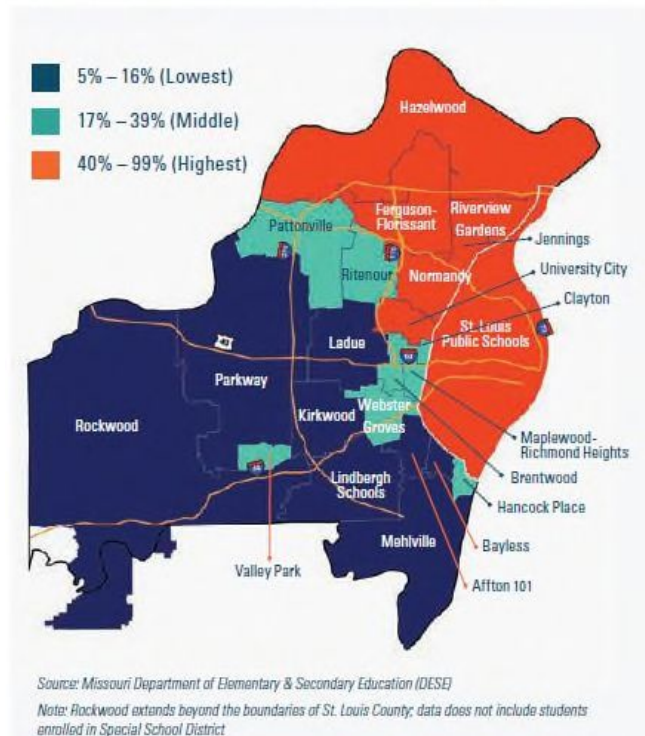
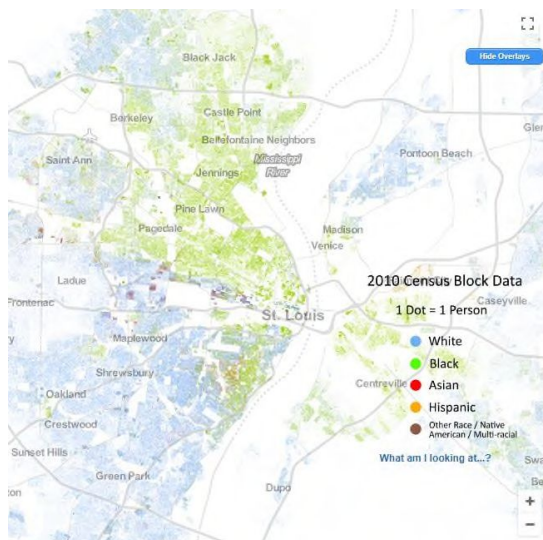
<sup>2</sup> Jason Q. Purnell and For the Sake of All, *Riverview Gardens School-Based Health Center: Needs Assessment Report 6* (January 2018), [https://www.boarddocs.com/mo/rgsd/Board.nsf/files/AWNSWD716508/\\$file/FSOA\\_SBHC\\_RG\\_HS\\_NeedsAssessment.pdf](https://www.boarddocs.com/mo/rgsd/Board.nsf/files/AWNSWD716508/$file/FSOA_SBHC_RG_HS_NeedsAssessment.pdf).

<sup>3</sup> Missouri Department of Elementary and Secondary Education, *District Report Card: Riverview Gardens* (2017), <https://mcde.dese.mo.gov/guidedinquiry/School%20Report%20Card/District%20Report%20Card.aspx>.

<sup>4</sup> Dustin Cable, Weldon Cooper Center for Public Service, University of Virginia, *The Racial Dot Map* (July 2013), available at <https://demographics.virginia.edu/DotMap/index.html>. Image Copyright, 2013, Weldon Cooper Center for Public Service, Rector and Visitors of the University of Virginia (Dustin A. Cable, creator).

<sup>5</sup> Washington University at St. Louis and Saint Louis University, *For the Sake of All: A report on the health and well-being of African Americans in St. Louis and why it matters for everyone* at 36 (July 31, 2015), [https://forthesakeofall.org/wp-content/uploads/2016/06/FSOA\\_report\\_2.pdf](https://forthesakeofall.org/wp-content/uploads/2016/06/FSOA_report_2.pdf).

**Figure 25. Percent African American enrollment by school district in St. Louis City and St. Louis County**



82. Poverty affects close to one in three Black individuals in the St. Louis region, and almost half of Black children under 18 in the region live in poverty.<sup>6</sup> The unemployment rate for Black individuals in St. Louis County is 18%, three times as high as the unemployment rate for white people.<sup>7</sup> 98.8% of students in the District qualify for free and reduced price lunch, as compared to 12.6% of students in the Clayton School District, which is a mere 10 miles away.<sup>8</sup> Only 16.84% of the students in Clayton identify as Black.<sup>9</sup>

<sup>6</sup> *Id.* at 18, 24.

<sup>7</sup> For the Sake of All at 21.

<sup>8</sup> Missouri Department of Elementary and Secondary Education, Missouri Comprehensive Data System, Student Characteristics, Student Demographics (District), *available at* <https://mcds.dese.mo.gov/quickfacts/Pages/Student-Characteristics.aspx/>.

<sup>9</sup> *Id.*

83. Riverview Gardens is 2.6 grade levels below the national average in mathematics and English Language Arts achievement levels.<sup>10</sup> Clayton School District is 2.1 grades above the national average.<sup>11</sup> This means that the average student in Clayton is almost five grades ahead of the average student in Riverview Gardens. Riverview Gardens is the lowest performing regular (non-charter) district in Missouri for ELA (25% proficient) and math (14% proficient). In 2016, the District had two of the 25 lowest performing elementary schools in Missouri. Both of the District's two middle schools were among the lowest 15 performing middle schools in the State in 2016, and the District's only high school was among the State's lowest 25 performing high schools. Whereas the statewide average ACT score is 20.20 (out of 36), which is just above average for the nation, the average ACT score at Riverview Gardens is 14.10—a score that is in the 13th percentile in the nation and insufficient to get into almost any college. A mere four out of 194 students in the District—or 2%—scored above the national ACT average in 2017—2% of all students compared to 33.7% of students in the State. The District's ACT scores have been steadily declining since 2000, when the average score was 18, as compared to the State averages, whose scores have remained in the 20-21 range for the same period.

84. In the Riverview Gardens community, the highest educational attainment for half of all residents is a high school diploma or less and in the 2016-2017 school year, 6% of all African American students in Riverview Gardens High School dropped out, about four times the rate of drop-outs for white students in the State.<sup>12</sup> The low educational attainment of residents

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<sup>10</sup> See data collected in Reardon, et al., *Stanford Education Data Archive* (2016), <http://purl.stanford.edu/db586ns4974>.

<sup>11</sup> *Id.*

<sup>12</sup> Missouri Department of Elementary and Secondary Education, Missouri Comprehensive Data System, District Annual Drop-Out Rate, Riverview Gardens, available at [https://mcde.dese.mo.gov/quickfacts/sitepages/districtinfo.aspx?ID=\\_\\_bk81000300930063001300130013001300](https://mcde.dese.mo.gov/quickfacts/sitepages/districtinfo.aspx?ID=__bk8100030093006300130013001300).

makes employment difficult, and nearly 20% of people ages 16 years or older in the community are unemployed.<sup>13</sup>

85. As a result of these economic disparities, the region is subject to high levels of housing instability. The District is home to five of the ten small cities and rural areas with the highest eviction rates in Missouri.<sup>14</sup> For instance, Glasgow Village, immediately adjacent to Riverview Gardens High School, and one of the communities the District serves, has an eviction rate of 13.9%,<sup>15</sup> compared to the average eviction rate in the State of 2.9%.<sup>16</sup> This is the second highest eviction rate among small cities and rural areas in Missouri, and is the 56th highest among all small cities and rural areas in the nation.<sup>17</sup> Other communities within the District have eviction rates that are nearly as high: Dellwood has an eviction rate of 11.6%, Bellefontaine Neighbors has an eviction rate of 11.5%, Castle Point has an eviction rate of 11.3%, the fifth, sixth, and seventh highest eviction rates for small cities and rural areas in Missouri, respectively.<sup>18</sup>

86. These eviction rates contribute to the high number of homeless students in the District and cause extremely high levels of transience for school aged children. 23% of youth in the Riverview Gardens community moved residences in within the last year, a rate nearly 1.5 times that of the rest of St. Louis County. Black residents in the Riverview Gardens area of

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<sup>13</sup> Purnell and For the Sake of All, *supra* note 2, at 7.

<sup>14</sup> The Eviction Lab at Princeton University, Eviction Rankings: Top Evicting Small Cities and Rural Areas in Missouri (2016 eviction rankings), <https://evictionlab.org/rankings/#/evictions?r=Missouri&a=2&d=evictionRate>.

<sup>15</sup> *Id.*

<sup>16</sup> The Eviction Lab at Princeton University, Map & Data: Missouri (2016 eviction rankings), <https://evictionlab.org/map/#/2016?geography=states&bounds=-157.999,19.631,-62.036,54.37&type=er&locations=29,-92.455,38.305>.

<sup>17</sup> The Eviction Lab at Princeton University, Eviction Rankings: Top Evicting Small Cities and Rural Areas in the United States (2016 eviction rankings), <https://evictionlab.org/rankings/#/evictions?r=United%20States&a=2&d=evictionRate>.

<sup>18</sup> *Id.*

service made up the vast majority of those moving residences, with 30% moving residences in the previous year compared to only 8% of white people.<sup>19</sup>

87. Life expectancy in the Riverview Gardens area of service is up to 15 years less than in predominantly white areas in the County.<sup>20</sup> These indicators of the extreme poverty and socioeconomic hardship experienced by the Riverview Gardens community underscore the high risk of homelessness faced by many families attending Riverview Gardens schools.

#### **B. Race Discrimination**

88. The deeply entrenched, longstanding issues of segregation, inequity, and racism in the St. Louis region were brought to national prominence after the fatal shooting of Michael Brown in Ferguson on August 9, 2014. Michael Brown died within the Riverview Gardens School District just a few blocks from the District's Koch Elementary School and Westview Middle School.

89. In the aftermath of Michael Brown's killing, and in response to calls to investigate the broader regional issues brought to light by the shooting, the Department of Justice found evidence of widespread discrimination and racial biases across the Ferguson Police and Judicial systems. For example, though Black individuals make up just 67% of the population of Ferguson, they accounted for 93% of arrests made from 2012-2014.<sup>21</sup> The report "revealed that these disparities occur, at least in part, because of unlawful bias against and stereotypes about

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<sup>19</sup> Purnell and For the Sake of All, *supra* note 2, at 8.

<sup>20</sup> Washington University at St. Louis and Saint Louis University, *supra* note 5, at 27; *see also* Post-Dispatch, *Life expectancy by zip code* (July 7, 2015), [https://www.stltoday.com/life-expectancy-by-zip-code/pdf\\_44517342-1091-57e7-96f2-8fef8943402e.html](https://www.stltoday.com/life-expectancy-by-zip-code/pdf_44517342-1091-57e7-96f2-8fef8943402e.html).

<sup>21</sup> United States Department of Justice, Civil Rights Division, Investigation of the Ferguson Police Department 4 (March 4, 2015), [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf).

African Americans.”<sup>22</sup> The investigation also revealed that Black community members in the region expect and frequently receive “routinely disrespectful treatment” from the police.<sup>23</sup>

90. The Department of Justice’s findings were further corroborated by the Ferguson Commission’s report *Forward Through Ferguson: A Path Toward Racial Equity*. The report documents the pervasive racism faced by the Black community in the St. Louis region and the multifaceted discrimination and trauma that Plaintiffs, their families, and other Black residents of the St. Louis area have experienced for years, for instance, in their interactions with police<sup>24</sup> and the courts.<sup>25</sup> For example, although Black individuals make up just under 30% of the population, 61% of incarcerated adults from the St. Louis region are Black—double their representation in the population.<sup>26</sup> A recently updated report card documents that while some of the racial equity issues identified have improved, some have worsened and may have remained the same as at the time of the initial report.<sup>27</sup>

91. The discrimination experienced by Black individuals in the region is not limited to their interactions with law enforcement. A 2016 National Community Reinvestment Coalition report found that the racial composition of a neighborhood in St. Louis is nearly as important as neighborhood income in predicting mortgage activity, meaning Black residents face additional discrimination in the housing market.<sup>28</sup>

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<sup>22</sup> *Id.* at 5.

<sup>23</sup> *Id.* at 18.

<sup>24</sup> The Ferguson Commission, *Forward Through Ferguson: A Path Toward Racial Equity* 26-27 (October 14, 2015), <https://forwardthroughferguson.org/report/executive-summary/>.

<sup>25</sup> *Id.* at 31.

<sup>26</sup> Washington University at St. Louis and Saint Louis University, *supra* note 5, at 20.

<sup>27</sup> The Ferguson Commission, *State of the Report: Tracking the Ferguson Commission’s Calls to Action*, August 2018, <https://forwardthroughferguson.org/stateofthereport/>.

<sup>28</sup> National Community Reinvestment Coalition, *Home Mortgage Lending in St. Louis, Milwaukee, Minneapolis and Surrounding Areas 5* (July 2016), <https://ncrc.org/wp-content/uploads/2018/01/Home-Mortgage-Lending2.pdf>.



92. Plaintiffs and other Riverview Gardens students have grown up in a region home to pervasive racism and discrimination across every facet of their daily lives. Student Plaintiffs have experienced and witnessed incidents of white police or school security officers using force to take Black children or adults into custody, even in cases where there was no resistance.

### **III. ROLE OF THE STATE**

93. Riverview Gardens has been run by the State for 15 of the last 18 years. The District was provisionally accredited from 2000 to 2001 and 2005 to 2007. In 2008, the District became unaccredited, and it remained so until January 2017. It is currently provisionally accredited and is overseen by the State-appointed Special Administrative Board, which took over the District in 2010.

94. Missouri's district accreditation is authorized by R.S.Mo. § 161.092(9), which stipulates that the State Board of Education shall "classify the public schools of the state . . . and formulate rules governing the inspection and accreditation of schools preparatory to classification." The State of Missouri makes accreditation classifications based on Annual Performance Reports (APR), which analyze schools and districts on five accountability standards: academic achievement, subgroup achievement, career/high school readiness, attendance, and graduation rate.<sup>29</sup> Districts need to earn 70% or more of the APR points possible to receive accreditation. Districts earning between 50-70% of the points are considered provisionally accredited and districts earning less than 50% of the APR points are considered unaccredited.<sup>30</sup> The Missouri DESE reviews APR data from the three most recent APRs to

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<sup>29</sup> Missouri Department of Elementary and Secondary Education, Comprehensive Guide to the Missouri School Improvement Program at 54-55, *available at* <https://dese.mo.gov/sites/default/files/MSIP-5-comprehensive-guide.pdf>.

<sup>30</sup> *Ibid* at 56.



identify trends in performance outcomes, as well as other factors.<sup>31</sup> The Missouri State Board of Education then reviews recommendations from the DESE and is ultimately responsible for ultimately assigning an accreditation classification to each district.<sup>32</sup>

95. If a school district is classified as unaccredited, the State Board of Education has the option to “[l]apse the corporate organization of the unaccredited district.”<sup>33</sup> The Board of Education then has several options to establish governance of the district, including appointing a special administrative board.<sup>34</sup>

96. Riverview Gardens lost accreditation in 2007 due to financial problems, leadership problems, and student performance problems. Beginning in 2010, the State named a Special Administrative Board to run Riverview Gardens. Currently, the District is provisionally accredited and continues to be run by the State-appointed Special Administrative Board.<sup>35</sup>

97. The APR system rewards progress not only in academic performance but in areas such as attendance, and a primary factor that brought Riverview Gardens into provisional accreditation was an increase in attendance rates. Accordingly, while Riverview Gardens students continue to have the lowest ELA and Math proficiency rates of any regular district in all of Missouri, a jump in APR helped the District qualify for provisional accreditation in 2017.<sup>36</sup>

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<sup>31</sup> *Id.*

<sup>32</sup> 5 CSR 20-100.105(5)(A-E); Describes the various rationales the State Board can consider in changing a district’s accreditation status.

<sup>33</sup> RSMo. 162.081.3 (1)(2).

<sup>34</sup> RSMo. 162.081.3 (2)(a)(b)(c)(d).

<sup>35</sup> Betsey Bruce and Danielle Scruggs, *Riverview Gardens School District granted provisional accreditation*, Fox 2 St. Louis, Dec. 2, 2016, <http://fox2now.com/2016/12/02/riverview-gardens-school-district-granted-provisional-accreditation/>.

<sup>36</sup> Kristen Taketa, *Riverview Gardens regains state accreditation*, St. Louis Post-Dispatch, Dec. 2, 2016, [http://www.stltoday.com/news/local/education/riverview-gardens-regains-state-accreditation/article\\_133be158-72e2-57f5-9910-ec78e8d7e490.html](http://www.stltoday.com/news/local/education/riverview-gardens-regains-state-accreditation/article_133be158-72e2-57f5-9910-ec78e8d7e490.html).

98. The attendance-driven increase in APR score for Riverview Gardens was surrounded by controversy. Two Riverview Gardens administrators alleged in a lawsuit that school district staff had falsified attendance records during the 2016-2017 school year to improve the District's chances of regaining full accreditation. They alleged that secretaries from many of the District's fourteen schools got together on so-called "cleanup" days during the summer, when they altered attendance records. The administrators cite "an email from a district official that stated: 'We need every point for full accreditation, so every students [sic] attendance matters!! I know the secretaries have gone in an [sic] checked attendance, but we need to do it one more time!'"<sup>37</sup> On June 20, another administrator "sent principals a list of students who had attendance percentages between 88 and 89.9 percent, telling them to check their records because 'we need every point for full accreditation, so every students [sic] attendance matters!!'"<sup>38</sup> A review of District records confirmed that the overall District attendance rate jumped from 78.8% to 81.5% after this "clean up." An attendance rate of 81.5% earned Riverview Gardens a full 10/10 APR points for attendance, while the lower rate of 78.8% would have only earned 6/10 points, which would have lowered the District's APR.<sup>39</sup> This lawsuit was subsequently settled and dismissed.

99. An investigation of the attendance modification by the District's law firm found they did not intentionally falsify attendance data. However, it found that school staff members

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<sup>37</sup> Kristen Taketa, *Riverview Gardens falsified attendance reports, administrators allege in lawsuits*, St. Louis Post-Dispatch, Oct. 25, 2017, [http://www.stltoday.com/news/local/education/riverview-gardens-falsified-attendance-reports-administrators-allege-in-lawsuits/article\\_bf1b487c-0a7c-53e4-9daf-3aeb8435fb55.html](http://www.stltoday.com/news/local/education/riverview-gardens-falsified-attendance-reports-administrators-allege-in-lawsuits/article_bf1b487c-0a7c-53e4-9daf-3aeb8435fb55.html).

<sup>38</sup> Kristen Taketa, *Riverview Gardens' attendance rate improved 3 percent after end-of-year 'clean-up'*, (Nov. 30, 2017), St. Louis Post-Dispatch, *available at* [http://www.stltoday.com/news/local/education/riverview-gardens-attendance-rate-improved-percent-after-end-of-year/article\\_7a482cf7-bf82-5db2-8305-277097f708f0.html?utm\\_source=dlvr.it&utm\\_medium=twitter&utm\\_campaign=dlvr](http://www.stltoday.com/news/local/education/riverview-gardens-attendance-rate-improved-percent-after-end-of-year/article_7a482cf7-bf82-5db2-8305-277097f708f0.html?utm_source=dlvr.it&utm_medium=twitter&utm_campaign=dlvr).

<sup>39</sup> *Id.*

who changed some attendance records provided no documentation as to why the changes were made, as district policy requires, and that “district staff incorrectly entered attendance data for online and credit recovery courses.”<sup>40</sup>

100. Neither Scott C.’s nor Miles M.’s 2017-2018 attendance report corresponds to the dates they were actually in school. In addition to stating that each student was “withdrawn” when he still believed he was enrolled, Scott C.’s attendance record does not reflect all of his suspensions, and Miles M.’s record shows him as withdrawn until the second semester of the 2017-2018 year, even though he attended school at the end of the fall semester 2017.

101. Other school districts in the St. Louis region have struggled to maintain their accreditation status as well. The neighboring Normandy School District (now the Normandy Schools Collaborative) was unaccredited from 2013-2018 and spent several years before that with only provisional accreditation.<sup>41</sup> The St. Louis Public School District was also unaccredited for a five-year span from 2007 to 2012. All told, St. Louis Public Schools spent nearly two decades without full accreditation before recently regaining accreditation in January of 2017.<sup>42</sup>

102. Given the financial incentives for schools to increase daily attendance rates, which affect the funding they receive from the State, and the pressures on the District to improve attendance and academic performance to obtain full accreditation, it is hardly surprising that the

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<sup>40</sup> Kristen Taketa, *Riverview Gardens’ law firm concludes that staff did not falsify attendance data*, St. Louis Post-Dispatch, March 31, 2018, [https://www.stltoday.com/news/local/education/riverview-gardens-law-firm-concludes-that-staff-did-not-falsify/article\\_82e72f39-1b14-57ce-b5e0-076fd3b77b21.html](https://www.stltoday.com/news/local/education/riverview-gardens-law-firm-concludes-that-staff-did-not-falsify/article_82e72f39-1b14-57ce-b5e0-076fd3b77b21.html).

<sup>41</sup> Kristen Taketa, *Normandy schools get good news — and provisional accreditation*, St. Louis Post-Dispatch, Dec. 1, 2017, [https://www.stltoday.com/news/local/education/normandy-schools-get-good-news-and-provisional-accreditation/article\\_693d9b70-e821-5b76-9709-ca2e1c9d2901.html](https://www.stltoday.com/news/local/education/normandy-schools-get-good-news-and-provisional-accreditation/article_693d9b70-e821-5b76-9709-ca2e1c9d2901.html).

<sup>42</sup> Missouri DESE, *State Board Grants Full Accreditation for St. Louis Public Schools* (Jan. 10, 2017), available at <https://dese.mo.gov/communications/news-releases/state-board-grants-full-accreditation-st-louis-public-schools>.

District would seek to exclude homeless students—who struggle to attend school regularly and to meet their academic performance potential—from enrolling at its schools. In doing so, Defendants create and propagate stigmas affecting these blameless children’s self-worth and desire and capacity to learn which is no different from their counterparts both within and outside the District.

#### **IV. THE MCKINNEY-VENTO ACT**

103. The McKinney-Vento Homeless Assistance Act (the McKinney-Vento Act) was enacted in 1987 to provide “urgently needed assistance to protect and improve the lives and safety of the homeless.” Pub. L. No. 100–77, 101 Stat. 525 (codified at 42 U.S.C. § 11431 (1988)); *National Law Center on Homelessness and Poverty v. New York*, 224 F.R.D. 314, 318 (E.D.N.Y. 2004). Title VII-B of the McKinney-Vento Act, also called the Education for Homeless Children and Youth program, is “designed to address the challenges that homeless children and youths have faced in enrolling, attending, and succeeding in school.” Department of Education, Education for Homeless Children and Youths Program, Non-Regulatory Guidance (DOE Guidance), July 27, 2016, updated March 2017, at 1. The McKinney-Vento Act considers children and youths to be homeless if they “lack a fixed, regular, and adequate nighttime residence,” including children who are “sharing the housing of other persons,” living in motels, shelters, or substandard housing, among other conditions. 42 U.S.C. § 11434a(2)(A)-(B). Substandard housing includes housing that “lacks one of the fundamental utilities, such as water, electricity, or heat; is infested with vermin or mold,” among other features. DOE Guidance at 6.

104. Since 1987, the McKinney-Vento Act has been revised and reauthorized multiple times, most recently in December 2015 by the Every Student Succeeds Act (ESSA). Through each revision and reauthorization, states are required to “ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public

education, including a public preschool education, as provided to other children and youths.” 42 U.S.C. § 11431(1); *Nat’l Law Ctr.*, 224 F.R.D. at 318. “Homeless children and youth should have access to the education and other services that such children and youths need to ensure that such children and youths have an opportunity to meet the same challenging State academic standards to which all students are held.” 42 U.S.C. § 11431(4). The Act requires states to “review and revise” any “laws, regulations, practices, or policies” that “may act as a barrier to the identification of or the enrollment, attendance, or success in school of, homeless children and youths.” 42 U.S.C. § 11431(2).

105. Districts are required, among other duties, to identify homeless students, ensure that they are “enrolled in, and have a full and equal opportunity to succeed in, schools,” ensure that they receive referrals to appropriate services, including health care and mental health services, ensure that parents “are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children,” and ensure that school personnel providing services receive “professional development and other support.” 42 U.S.C. § 11432(g)(6)(A). Districts are required to provide training and professional development opportunities for staff members so they are able to identify and meet the needs of homeless children and youths. 42 U.S.C. § 11432(f)(6). Students may not be segregated based on their status as homeless. 42 U.S.C. § 11432(e)(3).

106. State Educational Agencies must ensure that homeless students have “equal access to the same free, appropriate public education . . . as provided to other children and youths.” 42 U.S.C. 11431(1). Through the state coordinator, States are obligated to review and revise practices or policies that may act as barriers to the identification of, or the enrollment, attendance, or success in school of, homeless children and youth. 42 U.S.C. § 11431). The State

entities must provide technical assistance to and conduct monitoring of the district to ensure compliance with the statute. 42 U.S.C. § 11432(f)(6). The State entities are also obligated to provide professional development opportunities to for District personnel to assist them in identifying and meeting the needs of homeless children. 42 U.S.C. 11432(f).

107. Under the McKinney-Vento Act, a student who presents to a school or district as homeless must be immediately enrolled.<sup>43</sup> 42 U.S.C. § 11432(g)(3)(C)(i). If the school or district believes that the student does not qualify as a homeless student under the McKinney-Vento Act, the student must nonetheless be enrolled immediately pending the determination of homelessness status. 42 U.S.C. § 11432(g)(3)(C). A homeless student has the right to attend his or her school of origin<sup>44</sup> or a school in the district where he or she is currently staying. 42 U.S.C. § 11432(g)(3)(A)(ii). School placement decisions must be made according to the student's best interests, which is a fact-specific, student-centered, and individualized assessment. 42 U.S.C. § 11432(g)(3)(B); DOE Guidance at 23-24. This determination must include consideration of "factors related to the impact of mobility on achievement, education, health, and safety of homeless children and youth, giving priority to the request of the child's or youth's parent or guardian." 42 U.S.C. § 11432(g)(3)(B). If any dispute arises over enrollment or school selection, the district must use the enrollment dispute process and "must immediately enroll the homeless student in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals." 42 U.S.C. § 11432(g)(3)(E).

108. A district must provide a homeless student services "for the duration of homelessness." 42 U.S.C. § 11432(g)(3)(A)(i). "[T]here is no maximum duration of

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<sup>43</sup> "Enroll" includes "attending classes and participating fully in school activities." 42 U.S.C. § 11434(a)(1).

<sup>44</sup> "School of origin" is defined as "the school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled." 42 U.S.C. § 11432(g)(3)(I).

homelessness. Instead, a[] L[ocal] E[ducational] A[gency] must accommodate a homeless child for the entire time that they are homeless.” *L.R. ex rel. G.R. v. Steelton- Highspire Sch. Dist.*, No. 1:10-CV-00468, 2010 WL 1433146, at \*4 (M.D. Pa. Apr. 7, 2010). *See also* 2017-20 McKinney-Vento Administrative Manual (Missouri), App B at 40-41. Once enrolled in school, homeless students must “have a full and equal opportunity to succeed in” school. 42 U.S.C. § 11432(g)(6)(A)(ii).

109. The State of Missouri receives federal funds under the McKinney-Vento Act.<sup>45</sup> Riverview Gardens receives a subgrant of those funds. In 2017, Riverview Gardens reported 317 homeless students enrolled.<sup>46</sup>

110. Riverview Gardens has an ongoing obligation to remove barriers to the enrollment and retention of homeless children. 42 U.S.C. § 11432(g)(1)(I).

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<sup>45</sup> Missouri Department of Elementary and Secondary Education, Every Student Success Act, Missouri’s Consolidated State Plan, January 16, 2018 at 66-76 (Title VII), available at <https://dese.mo.gov/quality-schools/accountability-data/essa-%E2%80%93-federal-accountability>.

<sup>46</sup> Missouri Department of Elementary and Secondary Education, *Homeless District Results: SY 2012-2013 through SY 2016-2017*, <https://dese.mo.gov/sites/default/files/qs-Homeless-Dist-Results-2012-2017.pdf>. The reported count of 317 homeless students in Riverview Gardens for the 2016-2017 school year represents a substantial decline from the previous four school years. The reported homeless count in Riverview Gardens was 580 in 2015-16, 625 in 2014-2015, 747 in 2013-2014, and 797 in 2012-2013. The dramatic decline in homeless students, especially between the 2015-2016 and 2016-2017 school years, was discussed during the February 13, 2018, Open Session Board Meeting of the Riverview Gardens School District Special Administrative Board. In response to a request to explain the dramatic decline, Chaketa Riddle, the Assistant Superintendent of Student Support Services, explained that, “speaking to the 62%, that decline – one of the things that I had Ms. Woods to take a look at was the students who had consecutive years of enrollment in our district in the category of being homeless, and as we referenced McKinney-Vento, as well as ESSA laws, there are ways to help to establish those students as permanent residents of the district, which supported the decline in the number of students who were classified as homeless and/or in transition.” The Board Member subsequently asked if this could be considered “primarily an administrative change,” to which Ms. Riddle replied “An administrative change, and a change in practices and review and a clear understanding of the standards of McKinney Vento and ESSA.” *See* Riverview Gardens School District, February 13, 2018 – Open Session Board Meeting, Items for Information, Homeless Program Evaluation, Audio Recording at 27:05, available at <https://www.boarddocs.com/mo/rgsd/Board.nsf/Public#>.

111. Defendants are well aware of these obligations and of the inability of homeless students in the District to get access to education. Donna Cash and Andrea Woods and their predecessors and colleagues have repeatedly and explicitly been informed of the violations and advised of their responsibilities but have not remedied the violations.

112. Riverview Gardens has numerous policies and practices that act as barriers to the education of homeless children and to their success in school, including but not limited to the following areas:

**A. Timely and Continuous Enrollment**

113. Immediate enrollment is critical to ensuring that students can attend school without interruption. Guidance provided by the United States Department of Education highlights that “[h]omeless children and youths frequently move, and maintaining a stable school environment is critical to their success in school.” DOE Guidance at 23. Homeless students experience greater school mobility than their non-homeless peers, which causes interruptions to a child’s education and is associated with lower school achievement and increased risk of dropping out of school.<sup>47</sup>

114. Riverview Gardens has long-standing policies and practices that function as barriers to the enrollment of homeless students.

115. Failure to enroll immediately. For many years, Riverview Gardens has failed to offer immediate enrollment to homeless students.

116. Despite requirements that homeless liaisons at both State and District levels must have the capacity to carry out their duties, 42 U.S.C. 11432(d)(3) and 11432(g)(6), Riverview

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<sup>47</sup> United States Department of Education, *Homeless Student Guidance Fact Sheet: Supporting the Success of Homeless Children and Youths* 1 (July 27, 2016), <https://www2.ed.gov/policy/elsec/leg/essa/160315ehcyfactsheet072716.pdf>.



Gardens High School, the District's only high school, makes it almost impossible to present as a homeless student. Parents cannot reach school representatives by phone and are barred from entering campus without an appointment, which they cannot get because the phones are not answered.

117. Unlawful documentation requirements. Riverview Gardens requires documentation before enrolling students under the McKinney-Vento Act without immediately enrolling them in school, resulting in significant educational deprivation. The District and its staff question whether students who present at homeless are in fact homeless. They require the documentation of residence, identification documents, immunization records, and/or proof of guardianship, among other paperwork, from homeless students, despite the explicit statutory prohibition on such requirements. Riverview Gardens requires that homeless students repeatedly submit proof of residence. It notifies parents that they are obligated by a "new" 1996 law, the Missouri Safe Schools Act, to collect residency information, when that Act specifically exempts homeless students from the residency documentation requirements, as it must in order to comply with the McKinney-Vento Act. Mo. Ann. Stat. § 167.020 ("Subsection 2 of this section [detailing the residency documentation requirements] shall not apply to a pupil who is a homeless child or youth."). *See* Exhibit 1.

118. Riverview Gardens not only unlawfully requires proof of residence as a condition of enrollment but also discourages parental advocacy by threatening criminal and civil liability for filing false residency information. *See* Exhibit 1. This practice is highly stigmatizing and disrespectful to homeless families seeking an education for their children.

119. Attempts to unenroll students without dispute resolution. Riverview Gardens unenrolls students if they have varying amounts of absences, sometimes specified as 22 days.

This practice discriminates against homeless students who face well-known barriers to attendance due to their homelessness. Unenrolling students and otherwise pushing them out of school is harmful to homeless students and contrary to the purpose of the McKinney-Vento Act; it deprives students of their education and further increases their school instability which is widely recognized as detrimental. Students who frequently change schools “lose academic progress with each school change” and “have also been found to have lower test scores and worse overall academic performance than peers who do not change schools frequently. For this reason, the McKinney-Vento Act calls for [districts] to “maintain students in their school of origin to promote school stability and greater educational outcomes overall, unless it is not in the student’s best interest.” DOE Guidance at 2.

120. Riverview Gardens has a practice of unenrolling McKinney-Vento students without notice or opportunity for dispute resolution, which is required by statute before making a change in a homeless child’s enrollment. 42 U.S.C. § 11432(g)(3)(E). Students must remain enrolled pending the resolution of any dispute. *Id.*

121. Riverview Gardens seeks to stop providing McKinney-Vento program benefits to students for reasons that are unrelated to their McKinney-Vento eligibility, including failure to comply with Riverview Gardens Students in Transition Policy and Procedure which is not provided to parents, undocumented safety concerns, and absences, among other reasons. While schools may apply general policies that do not discriminate against homeless students to those students, such policies are separate from determining their McKinney-Vento benefits.

122. Unlawful limitations on time of enrollment under McKinney-Vento. Riverview Gardens limits enrollment under McKinney-Vento to one or two years, even if a student is still homeless for the purposes of the McKinney-Vento Act. This is not permitted. A district must

provide a homeless student services “for the duration of homelessness.” 42 U.S.C. § 11432(g)(3)(A)(i). “[T]here is no maximum duration of homelessness.” *L.R. ex rel. G.R.*, 2010 WL 1433146, at \*4.

## **B. Transportation**

123. Transportation to school is critical for homeless students, who often lack the means to get from their current sleeping location to the school site. The McKinney-Vento Act thus requires that the districts provide transportation to and from the school of origin. 42 U.S.C. § 11432(g)(1)(J)(iii); DOE Guidance at 27-31. This includes transportation to and from extracurricular activities. 42 U.S.C. § 11432(g)(1)(F)(iii); DOE Guidance at 29-30.

124. The Federal Department of Education has explained that “[t]ransportation has been reported as one of the main barriers to the education of homeless children,” DOE Guidance at 31, and it “must be arranged promptly to ensure immediate enrollment and so as not to create barriers to homeless students’ attendance, retention, and success.” DOE Guidance at 27. Homeless students move frequently, and “transportation plans must be adjusted accordingly.” DOE Guidance at 31. The DOE encourages districts to develop systems so they can meet their obligations to provide transportation, by, for instance, developing “flexible bus routes that can be implemented easily,” and “a system of providing gas vouchers, cards, or reimbursements to parents or youths who are able and willing to drive to schools.” DOE Guidance at 31.

125. Riverview Gardens has failed repeatedly to provide transportation promptly, resulting in total educational deprivation for students for extended periods of time. The District fails to provide transportation promptly both at the time of initial enrollment and when notified that a homeless family has moved to a different location. The District does not provide transportation from after-school athletics as required to give students full access to all school

activities, and does not consistently provide transportation to alternative education programs in the District.

**C. Suspensions and Exclusionary Discipline**

126. The McKinney-Vento Act requires districts to “ensure that homeless children have a full and equal opportunity to succeed in schools,” 42 U.S.C. § 11432(g)(6)(A), and that they eliminate barriers to the enrollment and retention of homeless children, 42 U.S.C. § 11432(g)((1)(I). DOE Guidance emphasizes that in reviewing the practices or policies that may act as a barrier to the education of homeless children, 42 U.S.C. § 11432(g)(1)(I) and (g)(7), districts should also conduct “a review of school discipline policies that disproportionately impact homeless students, including those who are also children and youths of color.” DOE Guidance at 6; 42 U.S.C. §§ 11432(g)(1)(I) and (g)(7).

127. Riverview Gardens’ policies regarding suspensions and exclusionary discipline constitute barriers to the enrollment and retention of homeless children in school because homeless students are punished for behaviors relating to their homelessness and the accompanying trauma.

128. DOE Guidance cautions against the use of suspensions for homeless students in light of their circumstances. “Homeless children and youths face many challenges outside of the classroom. It is critical for schools, therefore, to provide safe and supportive climates for homeless students and to employ fair discipline strategies. Removing students from school (e.g., by suspending a student) should be used only as a last resort; this is particularly important due to the high mobility of homeless students and the lack of access to food and other services that out of school suspension or expulsion may cause.” DOE Guidance at 35.

129. Zero tolerance policies regarding suspensions, tardiness, and truancy further isolate students and contribute to increased risk for negative consequences, such as involvement in the juvenile and criminal justice systems.

130. Riverview Gardens regularly suspends students, including homeless students, for minor behaviors. Students are suspended for multiple days for offenses as minor as shrugging their shoulders at a teacher or swearing at another student. Students are suspended for being caught in the hallway three times instead of being in class.

131. School staff are not trained on appropriate responses to homeless students, trauma-impacted students, or students in poverty; one teacher threatened to suspend a student for not wearing the correct pants with her uniform when that student had outgrown her pants and her mother could not immediately afford a new pair of the official uniform pants. Students who are not provided with support services are often pushed out of traditional school into alternative education programs or withdrawn by school officials for minor attendance and behavioral problems, or for not having the appropriate uniform.

132. Once suspended, students as young as middle school, ages 11-13, are arrested in handcuffs if they attempt to return onto school property. Students who have been suspended have been called “criminals” by their teachers, within their hearing.

133. Suspensions are arbitrarily extended, removing homeless children from school indefinitely.

134. For homeless students, suspensions mean missing school which is often their sole source of stability, and also mean spending full days in extremely difficult living conditions. They are deprived of meals offered at the school and of the education that will allow them to get future opportunities and lift themselves and their families up.

**D. Restraints and Use of Law Enforcement**

135. Riverview Gardens' use of restraint and law enforcement re-traumatizes homeless students who are already subject to numerous traumatic experiences outside of school.

Riverview Gardens has a significant law enforcement presence in its schools. There are at least five District Safety/Security Officers and two law enforcement officials who carry guns and tasers. School security staff far outnumber counselors and regularly restrain students in handcuffs. Armed officers have permanent parking spots at numerous schools and have been seen chasing middle school students down the hallway at both Westview Middle School and Central Middle School. Students must pass through security to get into the building, and they must carry their belongings in transparent backpacks.

136. These policies and practices have a disproportionate negative effect on homeless students who have experienced significant, repeated trauma.

**E. Lack of Staff and Teacher Training in Recognizing and Responding to Homeless Students**

137. The McKinney-Vento Act requires that homeless youth have a "full and equal opportunity to succeed in[] school," and that "school personnel providing services to homeless children and youth receive professional development and other support." 42 U.S.C. § 11432(g)(6)(ii) and (ix). Federal Guidance emphasizes that "it is critical for schools . . . to provide safe and supportive climates for homeless students and to employ fair discipline strategies." DOE Guidance at 35. As set forth in more detail in section V.C., below, students experiencing homelessness are exposed to all of the traumas associated with extreme poverty as well as the additional severe traumas of homelessness and housing instability, among others. The repeated exposure to trauma has been found to give rise to student behaviors that can be misinterpreted by staff who have not received the proper training. The Federal Department of

Education advises that all personnel who come into contact with homeless students must be trained: 1) to recognize “the types of behaviors that might be related to a student’s homelessness and provide strategies to assist the students,” and trained 2) to understand “how trauma can impact student behavior and how to mitigate the effects of trauma in the school environment by providing trauma-informed support.” DOE Guidance at 35-36.

138. Riverview Gardens does not provide adequate and appropriate training in recognizing student behaviors related to homelessness and trauma and responding to them in appropriate ways that permit homeless students to access their education.

**F. Lack of Counselors, Mental Health Support, and Trauma-Sensitive Resources**

139. Student Plaintiffs and other homeless students are not provided with counselors or other mental health support while in school, despite the school’s knowledge that they are homeless and have suffered considerable trauma. This lack of support results in declining performance by homeless students and disengagement with school.

**G. Access to Extra-Curricular and Academic Activities**

140. The McKinney-Vento Act requires that “homeless children and youths who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities.” 42 U.S.C. 11432(g)(1)(F)(iii). Student Plaintiffs have been barred from participating in extra-curricular activities due to reasons relating to their homelessness, and, to the extent they are permitted to participate, have not been provided transportation from such activities to the extent they are permitted to participate. This has affected their emotional and physical well-being and damaged their prospects for future scholarships.

## **H. Special Education**

141. Districts are obligated to provide special education services to homeless students. 42 U.S.C. § 11432(g)(4). Unenrolling students with disabilities prevents students from getting access to the special education services to which they are entitled, in addition to denying students access to the general education services.

## **I. Diversion into Alternative Education Environments**

142. The McKinney-Vento Act prohibits the segregation of homeless students “in a separate school, or in a separate program within a school, based on such child’s . . . status as homeless.” 42 U.S.C. § 11432(e)(3). The District frequently diverts homeless students into alternative education programs instead of permitting them to attend high school and frequently unenrolls them for attendance and behavior problems related to their homelessness. The alternative education program ACE operates for two to three hours per day and does not provide a full day of schooling. ACE does not provide students with the same engagement and support that a traditional classroom provides. In ACE classrooms, students are placed in front of a computer screen and expected to teach themselves. There is one teacher in the classroom, but students are working through a variety of subjects, and the teacher generally does not have appropriate expertise in the actual subject matter the students are studying. Less is expected from students in the ACE program; ACE only requires 19 credits for graduation while the state of Missouri requires 24. Outside of the classroom, students in ACE are physically separated from their peers at Riverview Gardens and lose the support of their friends.

143. Riverview Gardens has a policy of diverting any student who falls behind in credits to ACE, without regard for whether the lack of credits was related to the student’s homelessness.



## V. TRAUMA

144. When homeless students do manage to overcome the barriers erected by the District and State in order to attend District schools, they are nonetheless barred from meaningful access to education because of the predictable consequences of their unaddressed exposure to trauma and complex trauma. Trauma stems from such causes as exposure to violence and loss, family disruptions related to incarceration, systemic racism and discrimination, and the extreme stress of lacking basic necessities. Complex trauma stems from the exposure to multiple persistent sources of violence, loss, and other Adverse Childhood Experiences (also known as ACEs), and describes children's exposure to these events and the impact of this exposure.<sup>48</sup> Homelessness is widely recognized to be an Adverse Childhood Experience; it is both the cause of trauma exposure and the consequence of traumas such as extreme economic insecurity, domestic abuse, and other Adverse Childhood Experiences. While many children in the Riverview Gardens School District have been exposed to Adverse Childhood Experiences, children experiencing homelessness have a particular exposure to trauma. Not only are they exposed to the traumas of food insecurity, transience, and other Adverse Childhood Experiences attendant to homelessness; they also lose the protective factor of a stable home environment, which promotes resilience. As a result, children experiencing homelessness are among the most vulnerable to the effects of complex trauma.

145. Experiences across the country and abroad have repeatedly shown that appropriate interventions, which teach skills proven to bolster the resilience of young people, can effectively accommodate the disabling effects of trauma. This gives students affected by trauma—including students experiencing homelessness—meaningful access to the public

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<sup>48</sup> The Centers for Disease Control and Prevention (CDC) defines ACEs as childhood abuse, neglect, and exposure to other traumatic stressors. *See* CDC, *Adverse Childhood Experiences: What are ACEs?*, [https://vetoviolence.cdc.gov/apps/phl/resource\\_center\\_infographic.html](https://vetoviolence.cdc.gov/apps/phl/resource_center_infographic.html).

education they deserve. Because the District and State have failed to ensure that Plaintiffs and their homeless peers have such reasonable accommodations, they are discriminating against Plaintiffs in violation of federal law.

**A. Statutory Framework**

**Section 504 of the Rehabilitation Act**

146. Section 504 of the Rehabilitation Act provides: “No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . .” 29 U.S.C. § 794(a). To demonstrate a violation of § 504, a plaintiff must show that (i) he or she is an “individual with a disability” under the terms of the Rehabilitation Act; (ii) he or she is “otherwise qualified” to receive the benefits or services sought, (iii) he or she was denied the benefits of the program “solely by reason of her or his disability”; and (iv) the program receives federal financial assistance. *Id.*

147. “[A]ll of the operations” of State agencies or departments and “local educational agenc[ies]” are considered “program[s] or activit[ies]” covered by the Act. 29 U.S.C. § 794(b).

148. The Department of Elementary and Secondary Education and the Riverview Gardens School District receive federal funds and are therefore subject to the Rehabilitation Act.

149. For purposes of the Rehabilitation Act, “individual with a disability” is defined as it is in the Americans with Disabilities Act of 1990 (ADA). *See* 29 U.S.C. § 794(a); *see also* 42 U.S.C. § 12101 *et seq.* For an individual to be eligible for protection under the Rehabilitation Act, he or she must have a “physical or mental impairment that substantially limits one or more major life activities . . . .” 42 U.S.C. § 12102(1)(A).

150. The Student Plaintiffs have experienced complex trauma, the effects of which “will, at a minimum, substantially limit major life activities,” 29 C.F.R. § 1630.2(j)(3)(iii), including “learning, reading, concentrating, thinking, [and] communicating.” 42 U.S.C. § 12102(2)(A). Because the Student Plaintiffs have experienced complex trauma, they meet the definition of “individuals with disabilities” within the meaning of the Act. Thus, they are entitled to “reasonable accommodations” to ensure “meaningful access” to the benefits, services, and programs provided by Riverview Gardens School District. *Alexander v. Choate*, 469 U.S. 287, 301 (1985).

151. As explained below, to provide trauma-impacted homeless students with “meaningful access” to education, Riverview Gardens must have a system for addressing these students’ needs, 34 C.F.R. §§ 104.32, 104.36, including integrating whole-school, trauma-sensitive practices.

152. “The remedies, procedures, and rights [of the Rehabilitation Act] . . . shall be available to any person aggrieved by any act or failure to act . . . under section 794 [Section 504 of the Rehabilitation Act] of this title.” 29 U.S.C. §794a(a)(2). Plaintiffs are persons aggrieved by Defendants’ failure to act in accordance with Section 504.

**Americans with Disabilities Act**

153. Title II of the ADA states, in relevant part, that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or subjected to discrimination by any such entity.” 42 U.S.C. § 12132.

154. To prove that a public entity has violated Title II of the ADA, a plaintiff must show: (1) that he or she is a qualified individual with a disability, (2) that he or she was excluded from participation in or denied the benefits of a public entity’s services, programs, or activities,

or otherwise discriminated against by the entity, and (3) the exclusion, denial of benefits, or other discrimination was due to his or her disability. *Layton v. Eder*, 143 F.3d 469, 472 (8th Cir. 1998).

155. The definition of “disability” under the ADA is identical to that under § 504, and Defendants have the same obligation to Student Plaintiffs to provide meaningful access to its services as under the Rehabilitation Act. *See* 29 U.S.C. § 794(a); 42 U.S.C. § 12102.

156. “The remedies, procedures, and rights set forth in [the Rehabilitation Act] shall be the remedies, procedures, and rights [the ADA] provides to any person alleging discrimination on the basis of disability in violation of . . . this title.” 42 U.S.C. § 12133.

**B. The Impact of Childhood Adversity and Trauma on Child Development and the Ability to Learn**

157. Complex trauma stems from an individual child’s exposure to multiple persistent sources of violence, loss, and other Adverse Childhood Experiences,<sup>49</sup> and describes children’s exposure to these events and the impact of this exposure.<sup>50</sup> Unaddressed exposure to trauma can impair a child’s ability to learn. The cumulative effect of trauma affects the core processing abilities of the brain in areas critical to learning, such as thinking, reading, concentrating, communicating, and regulating emotions.

158. Exposure to trauma can lead to palpable, physiological harm to a young person’s developing brain. Trauma is associated with mental health conditions such as somatoform disorders, major depression, schizophrenia, and substance abuse and dependence. In addition,

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<sup>49</sup> Adverse Childhood Experiences are “inherently disruptive experiences in childhood that produce significant and potentially damaging level[s] of stress and associated physical changes.” Christopher Blodgett, *Adopting ACES Screening and Assessment in Child Servicing Systems* 1 (working paper, July 2012), <https://del-public-files.s3-us-west-2.amazonaws.com/Complex-Trauma-Research-ACE-Screening-and-Assessment-in-Child-Serving-Systems-7-12-final.pdf>.

<sup>50</sup> The terms “trauma” and “complex trauma” are often used interchangeably in this complaint. Although a child can be profoundly affected by one traumatic experience, Student Plaintiffs have all experienced complex trauma, which is the subject of most of the academic literature cited.

exposure to traumatic stressors can cause developmental disruption and consequent educational loss for children, even if they do not meet the threshold for a diagnosable mental health disorder.

159. Trauma impairs a child's ability to learn when the resultant changes in the brain induce behaviors that reflect an inability to emotionally self-regulate—including aggression, disproportionate reactivity, impulsivity, distractibility, or withdrawal and avoidance. These trauma-induced behaviors disrupt the learning environment and frequently lead to exclusionary school-discipline measures or absence from school.

160. Unaddressed trauma affects a student's ability to participate and succeed in school. Children exposed to violence demonstrate significantly lower reading ability and grade-point averages, increased absences from school, and overall lower rates of high school graduation. Children exposed to Adverse Childhood Experiences are subject to an escalating array of detrimental educational impacts. Exposure to two or more such Adverse Childhood Experiences, for example, makes a student 2.67 times more likely to repeat a grade or become disengaged with school.<sup>51</sup> Exposure to three or more traumas Adverse Childhood Experiences makes a student four times more likely to experience academic failure and five times more likely to have serious attendance problems.<sup>52</sup> Students who have witnessed violence, in particular,

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<sup>51</sup> Christina D. Bethel et al., *Adverse Childhood Experiences: Assessing the Impact on Health and School Engagement and the Mitigating Role of Resilience*, 33:12 Health Affairs 2106, 2111 (2014).

<sup>52</sup> Christopher Blodgett, *No School Alone: How Community Risks and Assets Contribute to School and Youth Success, Report to the WA State Office of Financial Management in response to Substitute House Bill 2739* at 25 (March 2015), [http://www.healthygen.org/sites/default/files/No%20School%20Alone\\_%20How%20community%20risks%20and%20assets%20contribute%20to%20school%20and%20youth%20success.pdf](http://www.healthygen.org/sites/default/files/No%20School%20Alone_%20How%20community%20risks%20and%20assets%20contribute%20to%20school%20and%20youth%20success.pdf).

meet state academic-performance standards only half as often as peers who have not.<sup>53</sup> As a result, unaddressed trauma is a powerful driver of academic failure.

### **C. Student Plaintiffs' Exposure to Childhood Adversity and Trauma**

161. Students experiencing homelessness are disproportionately exposed to traumatic events that profoundly affect their psychological, emotional, and physical well-being. Although even a single traumatic experience can impair a child's ability to learn, Students Plaintiffs and their homeless peers are particularly subjected to multiple, repeated, and sustained traumatic experiences, including housing insecurity, extreme poverty, traumatic violence, grief over the loss of family and friends, and discrimination and racism.

#### ***Homelessness, Extreme Poverty, and Socioeconomic Hardship***

162. Homeless students within the Riverview Gardens School District are disproportionately exposed to trauma deriving from housing insecurity, extreme poverty, and other forms of socioeconomic hardship. For people experiencing homelessness, traumatic stressors are the rule rather than the exception. Homelessness and its attendant stressors can precipitate traumatic experiences, and traumatic experiences such as household abuse and violence also are also frequent precursors to homelessness.<sup>54</sup> Parents experiencing homelessness have often themselves experienced significant risk and adversity in their own histories.<sup>55</sup>

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<sup>53</sup> Christopher C. Henrich et al., *The Association of Community Violence Exposure with Middle-School Achievement: A Prospective Study*, 25 J. APPL. DEV. PSYCHOL. 327, 343 (2004).

<sup>54</sup> Jennifer P. Edidin et al., *The Mental and Physical Health of Homeless Youth: A Literature Review*, 43 Child Psychiatry Hum Dev 354, 356 (2012), available at <https://www.ncbi.nlm.nih.gov/pubmed/22120422>.

<sup>55</sup> J.J. Cutuli and Janette E. Herbers, *Promoting Resilience for Children Who Experience Family Homelessness Opportunities To Encourage Developmental Competence*, 16:1 Cityscape 113, 125 (2014), available at <https://www.jstor.org/stable/26326860>; Patricia A. Gorzka, *Homeless Parents' Perceptions of Parenting Stress*, 12:1 Journal of Child and Adolescent Psychiatric Nursing 7, (1999), available at <https://doi.org/10.1111/j.1744-6171.1999.tb00036.x>; Kevin J. Swick and Reginald Williams, *The Voices of Single Parent Mothers Who are Homeless*:

Homelessness tends to occur after acute traumatic experiences, such as domestic violence.<sup>56</sup>

Over 90% of mothers experiencing homelessness have been exposed to at least one severe traumatic stress, and 80% have experienced more than one.<sup>57</sup>

163. Experiencing homelessness is particularly traumatic for children. Homeless children are faced with the unremitting stresses of poverty, residential instability, and food insecurity that almost inevitably attend homelessness, as well as unsafe communities, unstable home environments, and family separations.<sup>58</sup> Such children are persistently confronted with fears that their most basic needs will not be met, including that they will have no place to live or that something bad will happen to their family. Children experiencing homelessness are exposed to more stressful life events than other children,<sup>59</sup> including for low-income children of similar background whose families have housing stability.<sup>60</sup>

164. The stresses of homelessness have a devastating impact on children and can precipitate neurobiological changes that interfere with learning, emotional self-regulation,

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*Implications for Early Childhood Professionals*, 38:1 Early Childhood Education Journal 49, (2010), available at <http://dx.doi.org/10.1007/s10643-010-0378-0>.

<sup>56</sup> Linda J. Anooshian, *Violence and Aggression in the Lives of Homeless Children: A Review*, 10:2 Aggression and Violent Behavior 129, (2005), available at <https://doi.org/10.1016/j.avb.2003.10.004>; J.C. Buckner et al., *Mental health issues affecting homeless women: Implications for intervention*, 63:3 American Journal of Orthopsychiatry 385, (1993), available at <http://psycnet.apa.org/doi/10.1037/h0079445>; Cutuli, *supra* note 55, at 125.

<sup>57</sup> Bassuk et al., *America's Youngest Outcasts: A Report Card on Child Homelessness*, The National Center on Family Homelessness, 80 (2014), available at <https://www.air.org/sites/default/files/downloads/report/Americas-Youngest-Outcasts-Child-Homelessness-Nov2014.pdf>; see also Bassuk et al., *The Characteristics and Needs of Sheltered Homeless and Low-Income Housed Mothers*, 276:8 Journal of American Medicine 640 (1996), available at <https://jamanetwork.com/journals/jama/article-abstract/407185>.

<sup>58</sup> Bassuk et al., *America's Youngest Outcasts*, *supra* note 57, at 82-83.

<sup>59</sup> Ann S. Masten et al., *Children in Homeless Families: Risks to Mental Health and Development*, 61:2 Journal of Consulting and Clinical Psychology 335, 338 (1993), available at <https://www.ncbi.nlm.nih.gov/pubmed/8473587>.

<sup>60</sup> *Id.* at 341.

cognitive skills, and social relationships.<sup>61</sup> Homeless children have higher rates of school absenteeism,<sup>62</sup> developmental delays,<sup>63</sup> and mental health problems than other children.<sup>64</sup> Children experiencing homelessness are sick four times more often than other children and have emotional and behavioral problems such as withdrawal, anxiety, depression, hostility and aggression at three times the rate of their housed peers.<sup>65</sup> They have mental health issues at a rate two to four times higher than housed children living in poverty,<sup>66</sup> have up to four times the prevalence of disruptive behavior disorders as compared to children who were permanently housed,<sup>67</sup> and frequently experience behavioral and emotional problems as well as adjustment problems at school.<sup>68</sup>

165. Without access to a trauma-informed school environment, children with complex trauma may suffer negative consequences that last a lifetime including potential damage to their

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<sup>61</sup> Bassuk et al., *America's Youngest Outcasts*, *supra* note 57, at 7.

<sup>62</sup> J.J. Cutuli et al., *Academic Achievement Trajectories of Homeless and Highly Mobile Students: Resilience in the Context of Chronic and Acute Risk*, 84:3 *Child Development* 841, 848 (2013), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3566371/>

<sup>63</sup> Yvonne Rafferty and Marybeth Shinn, *The Impact of Homelessness on Children*, 46:11 *American Psychologist* 1170, 1176 (1991), available at <http://psycnet.apa.org/doi/10.1037/0003-066X.46.11.1170>.

<sup>64</sup> Carolyn F. Wong et al., *The Impact of Specific and Complex Trauma on the Mental Health of Homeless Youth*, 31:5 *Journal of Interpersonal Violence* 831, 847 (2016), available at <http://journals.sagepub.com/doi/abs/10.1177/0886260514556770>.

<sup>65</sup> The National Center on Family Homelessness, *The Characteristics and Needs of Families Experiencing Homelessness* (2011) 4-5, available at <https://files.eric.ed.gov/fulltext/ED535499.pdf>.

<sup>66</sup> Ellen L. Bassuk et al., *The Prevalence of Mental Illness in Homeless Children: A Systematic Review and Meta-Analysis*, 54:2 *Journal of the American Academy of Child & Adolescent Psychiatry* 86 (2015), available at [https://jaacap.org/article/S0890-8567\(14\)00798-9/fulltext](https://jaacap.org/article/S0890-8567(14)00798-9/fulltext).

<sup>67</sup> ManSoo Yu et al., *A Comparison Study of Psychiatric and Behavior Disorders and Cognitive Ability Among Homeless and Housed Children*, 44:1 *Community Mental Health Journal* 1, 4 (2008), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4236108/>.

<sup>68</sup> Ann S. Masten et al., *Educational Risks for Children Experiencing Homelessness*, 35:1 *Journal of School Psychology* 27, 41 (1997), available at <https://www.sciencedirect.com/science/article/pii/S0022440596000325>.



mental, physical, cognitive, and social functioning.<sup>69</sup> However, when trauma-sensitive practices are adopted, these effects are reversible.

### **Violence**

166. Student Plaintiffs and many of their peers in the Riverview Gardens School District have experienced and witnessed violence in their neighborhoods. For example, Scott C. himself was shot while trying to protect his young nephew. Another nephew was shot by a stray bullet at a corner store near the housing project where he was staying. His older cousin and best friend was shot and killed.

167. In addition to the traumatic violence experienced by Student Plaintiffs, they and their peers are routinely exposed to trauma-inducing violence or threats. Gunshots are frequently heard or seen in the neighborhoods where Student Plaintiffs live, as well as at or near the school grounds. For example, Miles M. saw guns on his way to and from school multiple times, and he saw an armed police officer in school every day.

168. When violent incidents occur on or near school campuses, the school goes on lockdown. Once, Miles M. was outside for gym class when he heard gunshots coming from the direction of the public bus stop where he catches the bus home. The school went on lockdown, and his class was brought inside into the gym. Miles M. noticed that the other students did not seem worried about the lockdown, which he thought was due to the fact that they are used to that sort of thing happening. The students and parents were not updated after the lockdown, and after other lockdowns they were never told why the lockdown had occurred. These frightening incidents traumatize students by bringing violence into school—a place where students should have an expectation of safety.

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<sup>69</sup> Alexandra Cook et al., *Complex Trauma in Children and Adolescents*, 35:5 *Psychiatric Annals* 390, 390 (2005), available at <https://nursebuddha.files.wordpress.com/2011/12/complex-trauma-in-children.pdf>.

### **Discrimination and Racism**

169. For homeless youth in Riverview Gardens, the experience of homelessness, poverty, and violence is often compounded by unfair treatment due to their race or ethnicity.

170. Race-based discrimination produces toxic stress that can result in fear, tension, anxiety, depression, sadness, anger, and aggression.<sup>70</sup> Individuals who are discriminated against can experience post-traumatic stress disorder as a result of discrimination.<sup>71</sup> The trauma of racism is comparable to “community violence, being held captive, or being psychologically tortured.”<sup>72</sup> The toxic stress of discrimination can derive not only from singular events of discrimination but from a series of “wounds and blows” over an extended period of time.<sup>73</sup> Chronic exposure to acts of racism can lead to internalized devaluation, an assaulted sense of self, internalized voicelessness, and rage.

171. Incidents of racially biased policing and law enforcement practices that stigmatize and victimize communities of color in St. Louis County have been in the national spotlight since the killing of Michael Brown by police in 2014. These events have created and contributed to mistrust between the community and the police, causing students to experience fear and tension during interactions with law enforcement, including officers present in the schools, thereby further exacerbating exposure to trauma.

172. The actions of District Safety/Security Officers and law enforcement officers in particular in Riverview Gardens frequently mimic law enforcement encounters in the community

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<sup>70</sup> Robert T. Cater, *Racism and Psychological and Emotional Injury: Recognizing and Assessing Race-Based Traumatic Stress*, 35:1 *The Counseling Psychologist* 13, 77 (2007), available at <http://journals.sagepub.com/doi/pdf/10.1177/0011000006292033>.

<sup>71</sup> Hugh F. Butts, H. The black mask of humanity: Racial/ethnic discrimination and post-traumatic stress disorder. 30 *The Journal of the American Academy of Psychiatry and the Law* 336, 338 (2002), available at <http://jaapl.org/content/30/3/336>.

<sup>72</sup> Cater, *supra* note 70, at 83.

<sup>73</sup> *Id.* at 91.

and further reinforce and exacerbate the mistrust. Students are regularly restrained in handcuffs to be taken to the office, with their hands cuffed in front of the body if they are calm or behind their back if they are agitated. While some District Safety/Security Officers have developed supportive, trusting relationships with students whom they have known over the years, the law enforcement officers in particular replicate the discriminatory, overpolicing of the Black communities outside the school. Armed officers have been seen chasing middle school students down school corridors. Students who are suspended and attempt to come to school are handcuffed and removed from the premises. Miles M. was shocked and terrified to see an armed officer throwing another student down on the concrete pavement in front of the cafeteria.

**Death of or Separation from a Loved One**

173. Nearly every student in Riverview Gardens community, including Student Plaintiffs, has been touched by loss of or separation from caregiver, family member, or close friend.

174. The loss of a loved one can be difficult for any young person to process, but the nature of the losses suffered by many Riverview Gardens children may further complicate or exacerbate the trauma. Development of trauma symptoms after the death of a family member or friend is particularly likely when the death is sudden or violent. Children exposed to community violence are thus particularly vulnerable to complex trauma related to loss.

175. Loss is particularly traumatic when the survivor witnessed the events leading to the death or grieves in a setting in which the survivor feels like the threat has not passed. For example, the trauma of a child whose parent or sibling was killed in a shooting may be re-triggered when hearing gunshots or sirens.

176. For example, Plaintiff Scott C.'s older cousin, who was also his best friend, was shot and killed. Scott C. could hardly bear to go to his funeral because they were best friends

and he did not want to remember his best friend in a casket. Scott C. also witnessed the violent arrest of his brother before he was incarcerated—during which his brother was tased and there was a dangerous car crash involving his young nephews—and the arrest of his brother’s fiancée by ten armed officers for a probation violation.

177. Plaintiff Miles M. has also experienced family separation, including the abrupt departure of teenaged sister who had just given birth and could not tolerate their living environment. His sister also took with her Miles M.’s infant nephew, whom he cared for intensively during the first few months of his life, and now sees only occasionally, and who is in the care of his sister who is struggling to balance the responsibilities of being a teenage mother and to manage her own mental health.

178. Finally, Student Plaintiffs, like many Riverview Gardens schoolchildren, are grieving not a single loss, but the loss of multiple friends and family members within a single year. While the loss of even a single loved one is often defining for a child, the chronic nature of the losses suffered by Student Plaintiffs and their peers further complicates the grieving process.

## **VI. DEFENDANTS’ FAILURE TO PROVIDE MEANINGFUL ACCESS TO EDUCATION TO STUDENT PLAINTIFFS**

179. Particularly in schools that serve large populations of students who disproportionately have been affected by adversity such as homelessness and/or have significant mental health needs, comprehensive school-wide practices are required to address childhood trauma and to create an environment in which homeless students affected by childhood adversity are able to learn. Such interventions are necessary to effectively address the disabling impact of homelessness and other Adverse Childhood Experiences and give students the meaningful access to the public education to which they are entitled.

180. The key components of these school-wide practices include: (1) training educators to recognize, understand, and proactively address the effects of complex trauma and childhood adversity, in part through building children's self-regulation and social-emotional learning skills; (2) developing restorative practices that build healthy relationships, peacefully resolve conflicts, and avoid re-traumatizing students through punitive discipline; (3) ensuring the availability of consistent mental health support to meet student needs; and (4) adopting practices and interventions that are culturally appropriate and are created in partnership with community members.

181. When implemented faithfully, these school-wide practices create a safe, consistent, and supportive learning environment that allows students impacted by childhood adversity to learn. Schools that have put such practices in place have shown impressive improvements in student outcomes, with those children receiving appropriate intervention including trauma-impacted students receiving higher grades and demonstrating better behavior and concentration. Research has also indicated that appropriate remedial methods and supports can help significantly mitigate the effects of Adverse Childhood Experiences.<sup>74</sup> With this support, Student Plaintiffs can benefit from a system of education that allows them to learn effectively in the classroom and meaningfully access a public education.

182. By failing to recognize and address the impact of trauma on students affected by homelessness and failing to implement trauma-informed practices, Defendants have denied Student Plaintiffs meaningful access to public education in Riverview Gardens. Riverview Gardens has no meaningful programming to address the impact of childhood adversity and

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<sup>74</sup> Christina D. Bethel et al., *Adverse Childhood Experiences: Assessing the Impact on Health and School Engagement and the Mitigating Role of Resilience*, 33:12 Health Affairs 2106, 2112 (2014).

promote wellness. It does not train or sensitize teachers or administrative personnel to recognize, understand, and address the complex effects of childhood adversity and trauma in children. Without such training, school staff are unable to appropriately identify students in need of support, notify their families, or provide adequate interventions designed to reduce the impact of trauma and other mental health challenges on learning and student outcomes. Moreover, culturally sensitive mental health and support services are either entirely unavailable or grossly insufficient to meet student needs.

183. Instead of receiving these and other appropriate resources, Student Plaintiffs are subjected to punitive and counter-productive suspensions and diversions into alternative education that push them out of school, off the path to graduation, and into the criminal justice system.

184. Organizational Plaintiffs divert significant resources in advocating for trauma-sensitive practices in schools districts including Riverview Gardens, diverting resources from other initiatives and efforts, by, for example, educating the public about trauma and toxic stress and by advocating for instituting restorative justice and ending out-of-school suspensions, to name only some of the initiatives and projects they have undertaken.

## **VII. DEFENDANTS' BAD FAITH AND GROSS MISJUDGMENT**

185. Defendants are well aware of student exposure to trauma and the need for trauma-sensitive school environments in order to provide meaningful access to education for trauma-involved students.

186. Recent actions by the Missouri legislature and governor clearly show that the State of Missouri is aware of the need for trauma-sensitive school environments. In 2016, the legislature passed and the governor signed SB 638, which modified several provisions of the Code of State Regulations relating to elementary and secondary education, including establishing

the Trauma-Informed Schools Initiative. The modified statute requires that the Missouri Department of Elementary and Secondary Education “(1) Provide information regarding the trauma-informed approach to all school districts; (2) Offer training on the trauma-informed approach to all school districts, which shall include information on how schools can become trauma-informed schools; and (3) Develop a website about the trauma-informed schools initiative that includes information for schools and parents regarding the trauma-informed approach and a guide for schools on how to become trauma-informed schools.”<sup>75</sup>

187. Despite introducing these requirements over two years ago, the guidance and information offered by the Department of Elementary and Secondary Education on Missouri’s “Trauma-Informed Schools Initiative” is extremely limited. The “Trauma-Informed Schools Initiative Publication” currently available on the Missouri Department of Elementary and Secondary Education’s website is five pages long, and only contains a single page of information on the initiative itself.<sup>76</sup> The publication “recommends The Missouri Model as the developmental framework for the Trauma-Informed Schools Initiative.”<sup>77</sup>

188. The Missouri Model is a framework for a “trauma-informed approach,” but it was not specifically designed for this initiative. The framework was developed in 2014, prior to the adoption of SB 638, and is explicitly designed for application “to a very wide range of settings.”<sup>78</sup> The model is clearly not specifically targeted towards a school setting. The adoption

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<sup>75</sup> [MO Rev Stat § 161.1050 \(2016\)](#).

<sup>76</sup> Missouri Department of Elementary and Secondary Education, Trauma-Informed Schools Initiative, <https://dese.mo.gov/traumainformed> (last visited Aug. 9, 2018).

<sup>77</sup> Missouri Department of Elementary and Secondary Education, *The Trauma-Informed Schools Initiative 4*, available at <https://dese.mo.gov/sites/default/files/dese-the-trauma-informed-schools-initiative.pdf>.

<sup>78</sup> MO State Trauma Roundtable, *Missouri Model: A Developmental Framework for Trauma Informed*, MO Dept. of Mental Health and Partners, 1 (2014), available at

of the Trauma-Informed Schools Initiative into Missouri's education statutes indicates an acknowledgment of the important role trauma-sensitive practices play in schools and the need for such practices in trauma-impacted Districts.

189. Defendants are specifically aware that trauma and toxic stress are common for students residing in the Riverview Gardens School District. For The Sake of All conducted a needs assessment report on the district in January 2018, finding that “[t]rauma from the community environment was identified by staff interview and focus group participants as an important problem for RGHS students. Demographic data describing high rates of poverty and homelessness in the surrounding community corroborate this concern regarding students’ increased risk for trauma exposure.”<sup>79</sup> Staff members describing the widespread exposure of their students to trauma include hunger, violence, and racism. A Riverview Gardens High School staff member quoted in the report said their students “. . . don’t come ready to learn. They come hungry, maybe traumatized, or just angry or disappointed.”<sup>80</sup> Another staff member described the devastating trauma experienced by Riverview Gardens students, saying, “We have seen a lot of students die, some horrific deaths. So our students are still persevering. Of course a lot of students live in the Dellwood area with the Mike Brown situation in Ferguson, and so they were a part of that, whether they were out there, which many of them were not, but because they were in the area they saw the tanks. They had the gas in there . . . underlying they may even suffer from some PTSD.”<sup>81</sup>

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<https://dmh.mo.gov/trauma/MO%20Model%20Working%20Document%20february%202015.pdf>

<sup>79</sup> Purnell and For the Sake of All, *Riverview Gardens School-Based Health Center: Needs Assessment Report*, *supra* note 2, at 46.

<sup>80</sup> *Id.* at 9.

<sup>81</sup> *Id.* at 16.



190. Despite this clear and pressing need for trauma-sensitive services, particularly for homeless students, in Riverview Gardens, Riverview Gardens does not provide trauma-sensitive policies or programs.

191. While Riverview Gardens suffers from an overwhelming lack of trauma-sensitive practices, other school districts in the St. Louis region have begun to implement policies and training practices that underscore the importance of trauma-sensitivity in schools, highlighting the deficiencies in Riverview Gardens. For example, nearby Jennings School District trains all its staff members in trauma-informed care so that any staff member can help to support trauma-impacted children. The District also provides staff training in equity and dismantling racism. Jennings is intentionally seeking to create a school climate to support healing and recovery, focusing on positive behavior, and continually assessing needs. As a result, the District's achievement scores have increased.

### **CAUSES OF ACTION**

#### **FIRST CAUSE OF ACTION – Violation of 42 U.S.C. 1983**

**(All Plaintiffs Against All Individual Defendants for Violation of the McKinney-Vento Act, 42 U.S.C. §§11431, et. seq.)**

192. Plaintiffs hereby reallege and incorporate by reference Paragraphs 1 through 191 as if fully set forth herein.

193. Defendants have received grants under the McKinney-Vento Act.

194. The McKinney-Vento Act requires state educational agencies to ensure that “each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education . . . as provided to other children and youths.” 42 U.S.C. § 11431(1). Sections §§ 11431-11435 set forth the specific obligations of state and local educational agencies and employees under the Act.

195. These obligations include, but are not limited to, immediately enrolling homeless students; using a dispute resolution process prior to unenrolling students; providing transportation; identifying homeless students; reviewing and revising policies and procedures that may act as barriers to the identification, enrollment, attendance, or success in school of homeless youth and children, including residency requirements and policies regarding discipline, suspension, and expulsion; ensuring that homeless students receive special education services; and monitoring the District to ensure compliance with the statute.

196. As set forth in detail above, Defendants have failed to meet these obligations.

197. Plaintiffs have been harmed by the failure to provide equal access to the same public education as provided to other children and youths.

198. Plaintiffs have suffered an irreparable injury that cannot be adequately compensated by a remedy at law, the balance of the hardships between the parties warrants an equitable remedy, and an equitable remedy is in the public interest.

199. Plaintiffs are entitled to appropriate relief.

**SECOND CAUSE OF ACTION – Violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794**

**(All Plaintiffs Against All Defendants)**

200. Plaintiffs hereby reallege and incorporate by reference Paragraphs 1 through 199 as if fully set forth herein.

201. Under Section 504 of the Rehabilitation Act, “[n]o otherwise qualified individual with a disability. . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under . . . any program or activity conducted by any Executive agency . . . .” 29 U.S.C. § 794(a).

202. The operations of Defendants Missouri Department of Elementary and Secondary Education and Riverview Gardens School District are a “program or activity,” which term is defined to include all of the operations of agencies of a state and school systems. 29 U.S.C. § 794(b)(2)(B).

203. The definition of “disability” is a “physical or mental impairment that substantially limits one or more major life activities,” such as (but not limited to), “caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, *learning, reading, concentrating, thinking, communicating,* and working.” 42 U.S.C. §§ 12102(1)(A), (2)(A) (emphasis added).

204. The effects of complex trauma cause impairment that limits a student’s ability to learn, read, concentrate, think, and/or communicate, and to generally receive an education and have the opportunity to succeed in school.

205. Student Plaintiffs have been exposed to childhood adversity and trauma within their community and experience or have experienced complex trauma and its effects, substantially limiting them with respect to learning, reading, concentrating, thinking, and/or communicating.

206. Solely by reason of their unaddressed exposure to complex trauma and its effects, Student Plaintiffs have been denied meaningful access to public education by Defendants.

207. There are effective and reasonable accommodations that Defendants could implement that would allow Student Plaintiffs to learn, read, concentrate, think, communicate, and enjoy the benefit of a public education. The effects of complex trauma can be addressed with behavioral and mental health resources, as well as culturally relevant interventions, in order for students to have meaningful access to education. In order to meaningfully access public

education, Student Plaintiffs require a system that is responsive to and capable of addressing the impact of complex trauma.

208. Defendants have failed to establish a system, including procedures, trained teachers, and appropriate providers, to ensure that Student Plaintiffs receive the specialized instruction, related services, and other resources necessary to access the benefits of a public education.

209. The federal Department of Education (DOE) regulations implementing the Rehabilitation Act require a recipient of DOE funding to identify and locate students who are not properly receiving an adequate public education as a result of their disabilities, including but not limited to identification and location of students whose disabilities are related to complex trauma and its effects. 34 C.F.R. § 104.32.

210. Defendants have failed to establish and implement policies or procedures to identify and locate Riverview Gardens students who are not properly receiving an adequate public education on account of their disabilities, including but not limited to disabilities related to complex trauma and its effects. Defendants have failed to locate and identify Riverview Gardens students who are not properly receiving an adequate public education on account of their disabilities, including but not limited to disabilities related to complex trauma and its effects.

211. DOE Regulations provide that a recipient of DOE funding that “operates a public elementary or secondary education program or activity shall establish and implement, with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, a system of procedural safeguards that includes notice, an opportunity for the parents or guardian

of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure.” 34 C.F.R. § 104.36.

212. Defendants have not established and implemented a system of procedural safeguards with respect to actions regarding identification, evaluation, and educational placement of students who are not receiving an adequate public education as a result of their disabilities, including but not limited to the fact that they have suffered complex trauma. Defendants have failed to establish a system of procedural safeguards for Riverview Gardens students that includes notice, an opportunity for parents or guardians to examine relevant records, an impartial hearing, and a review procedure. Defendants' failure to establish such a system has resulted in negative consequences for students who were entitled to the protection of procedural safeguards, including suspension, involuntary transfer, expulsion, and law enforcement referrals.

213. Plaintiffs have been damaged by the failure to provide a system for serving Riverview Gardens students who have suffered adversity and complex trauma, which has deprived those students of access to public education.

214. Plaintiffs have suffered an irreparable injury that cannot be adequately compensated by a remedy at law, the balance of the hardships between the parties warrants an equitable remedy, and an equitable remedy is in the public interest.

215. Plaintiffs are entitled to appropriate relief.

**THIRD CAUSE OF ACTION – Violation of Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.**

**(All Plaintiffs Against All Defendants)**

216. Plaintiffs hereby reallege and incorporate by reference Paragraphs 1 through 215 as if fully set forth herein.

217. The effects of complex trauma cause an impairment that limits a student's ability to learn, read, concentrate, think, communicate, and generally receive an education and have the opportunity to succeed in school.

218. Each of the Student Plaintiffs suffers from complex trauma and its effects.

219. Missouri Department of Elementary and Secondary Education, the State Board of Education, and Riverview Gardens School District are public entities under Title II of the Americans with Disabilities Act.

220. As students enrolled in the Riverview Gardens School District as homeless students under the McKinney-Act and children between the ages of six and eighteen and are eligible for a free public education, such an education is compulsory. The Student Plaintiffs are therefore eligible for a free public education.

221. Solely by reason of their exposure to complex trauma, each of the Student Plaintiffs have been denied the benefits of, or meaningful access to an adequate public education by Defendants. Each of the Student Plaintiffs has also been denied the benefits of an adequate public education by Defendants. Complex trauma impairs a student's ability to learn and receive an education in the classroom, and reasonable accommodations have not been made for students who have been subjected to complex trauma.

222. There are effective reasonable accommodations that Defendants could implement to create a trauma-sensitive environment that would allow trauma-impacted homeless students at Riverview Gardens to learn, read, concentrate, think, communicate, and enjoy the benefit of public education. Some examples include providing training, coaching, and consultation for teachers, administrators, and all school staff on effective strategies for interacting with homeless students in a positive and trauma-sensitive way, establishing restorative practices to prevent,

address, and heal after conflict, and making mental health professionals available who could assist in diagnosis of trauma and implementation of interventions.

**FOURTH CAUSE OF ACTION – Violation of 42 U.S.C. § 1983**

**(All Plaintiffs Against All Individual Defendants for violation of the United States Constitution, Amend. XIV)**

**(All Plaintiffs Against All Individual Defendants)**

223. Plaintiffs hereby reallege and incorporate by reference Paragraphs 1 through 222 as if fully set forth herein.

224. Under the Fourteenth Amendment to the United States Constitution, no State shall “deny any person within its jurisdiction the equal protection of the laws.”

225. Public education plays a pivotal role in maintaining the fabric of society and promoting the social, economic, and intellectual well-being of the individual. Denial of public education to homeless children forecloses an important means by which such children and their families can alleviate their plight.

226. The Defendants have violated the Plaintiffs’ rights to Equal Protection under the law by systematically refusing and failing to provide the same access to a free public-school education enjoyed by students and families of children who are not homeless.

227. Defendants’ actions in denying to the Student Plaintiffs what is made available to all other students in the Riverview Gardens School District were performed without any legitimate justification sufficient to overcome Plaintiffs’ substantial interests.

228. Defendants’ school policies and practices deliberately exclude homeless students.

229. Plaintiffs have been injured as a proximate result of Defendants’ violations of Plaintiffs’ rights under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

## **REQUEST FOR RELIEF**

Wherefore, Plaintiffs request the following relief:

1. Injunctive relief requiring Defendants to implement the dictates of the McKinney-Vento Act, in order for Student Plaintiffs to have a full and equal opportunity to succeed in school, including but not limited to:

- a. Properly identifying homeless children;
- b. Ensuring the immediate enrollment of homeless students upon presentation to a school, including by reviewing and revising unlawful policies and practices regarding residency documentation requirements;
- c. Ceasing the practice of unenrolling students without notice or dispute resolution;
- d. Maintaining homeless student enrollment pending the resolution of the dispute resolution process and all available appeals;
- e. Providing uninterrupted transportation to and from school, including extra-curricular activities, beginning immediately upon presentation as homeless and for the duration of homelessness or the academic year, whichever is longer.
- f. Notifying parents and/or guardians of their rights under McKinney-Vento, including their right to transportation;
- g. Ceasing the practice of funneling homeless students to alternative education environments for reasons related to their homelessness;
- h. Reviewing and revising punitive disciplinary policies and practices that constitute a barrier to the education of homeless students;



- i. Ensuring that homeless students have the academic, socioemotional, and mental health supports they need to meet the same challenging State academic standards to which all students are held;
  - j. Training all adult staff in the District to recognize behaviors associated with homelessness and address them through trauma-sensitive responses;
  - k. Providing trauma-sensitive supports; and
  - l. Monitoring the District for compliance with the McKinney-Vento Act.
2. Injunctive relief requiring Defendants to implement reasonable accommodations in the form of whole-school trauma-sensitive policies and procedures that will allow the Student Plaintiffs an opportunity to receive an adequate public education, including, but not limited to:
  - a. Evidence-based, comprehensive and ongoing training, coaching, and consultation for all adult staff—including teachers, administrators, counselors, and other staff—regarding trauma-informed methods, and strategies for educating homeless students and fostering a healthy, supportive environment;
  - b. Implementation of restorative practices as described in this Complaint to prevent, address, and heal after conflict;
  - c. Employment of appropriately trained counselors who can assist with identification of student who have mental health difficulties after being subjected to trauma.
3. A declaration that Defendants, through their actions and omissions and the policies and procedures complained of, violate:
  - a. The McKinney-Vento Act;

- b. Section 504 of the Rehabilitation Act;
- c. The Americans with Disabilities Act;
- d. The Equal Protection Clause under the United States Constitution Amend.

XIV.

4. Issue an order requiring the preparation of a plan, with Court approval and consideration of any objections by Plaintiffs, designed to cure their violations of law, and bring them into compliance with the law.

5. An award of costs and attorney's fees and expenses pursuant to 29 U.S.C. § 794(a), 42 U.S.C. § 1988, and any other applicable provisions of law.

6. Such other relief as this court deems just and proper.

Dated: August 13, 2018

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Luz María Henríquez, an attorney, hereby certify that on August 13, 2018, I caused a copy of the foregoing document to be filed via the Court's CM/ECF system, which will automatically serve and send e-mail notification of such filing to all registered attorneys of record.

/s/ Luz María Henríquez

Luz María Henríquez