

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

TAWNYA SAMUEL AND MICHAEL
SAMUEL, on behalf of their minor child, C.S.,

Plaintiffs,

-against-

SOUTHERN BOONE SCHOOL DISTRICT,

THE BOARD OF EDUCATION OF THE
SOUTHERN BOONE SCHOOL DISTRICT,

JUSTIN GRIFFITH, individually and in his
official capacity,

WILLIAM BEAUDOIN, individually and in
his official capacity,

ASHLEY BRUCE, individually and in her
official capacity,

MELISSA PULKRABEK, individually and in
her official capacity,

TARA BLUE, individually and in her official
capacity,

SHELBY CONTRADES, individually and in
her official capacity,

JULIE OREILLY-CHAPMAN, individually
and in her official capacity,

ASHLEY ROTH, individually and in her
official capacity,

CIVIL COMPLAINT

Case No.

BRETT STRAUZER, individually and in his official capacity,

CAROLYN PRIDEMORE, individually and in her official capacity, and,

DR. TIM ROTH, individually and in his official capacity.

Defendants.

COMPLAINT

COME NOW Plaintiffs Tawnya Samuel and Michael Samuel, by and through their attorney, Tarak Alexander Devkota, and hereby bring this action on behalf of their minor child, C.S., and complain against Defendants as follows:

PARTIES

1. Plaintiffs Tawnya Samuel and Michael Samuel (hereinafter “Plaintiffs”), as parents and guardians of C.S., a minor, are residents of Ashland, Missouri.
2. C.S., a minor (hereinafter “C.S.”), is the minor child, under the age of 14, of Tawnya Samuel and Michael Samuel, and is a resident of Ashland, Missouri. C.S. is currently enrolled as a student at Southern Boone Middle School.
3. Defendant Southern Boone School District (hereinafter “District”), is a municipal corporation, organized and existing under Missouri State Education Law, and may be served at: 5275 West Red Tail Drive, Ashland, Missouri 65010.
4. Defendant Board of Education of the Southern Boone School District (hereinafter “Board”) is the governing body of the District, and may be served at: 5275 West Red Tail Drive, Ashland, Missouri 65010.

5. Defendant Justin Griffith (hereinafter “Griffith”), individually and in his official capacity, is employed by the District as the Principal of Southern Boone Middle School, and may be served at: 303 N. Main Street, Ashland, Missouri 65010.

6. Defendant William Beaudoin (hereinafter “Beaudoin”), individually and in his official capacity, is employed by the District as the Vice Principal of Southern Boone Middle School, and may be served at: 303 N. Main Street, Ashland, Missouri 65010.

7. Defendant Ashely Bruce (hereinafter “Bruce”), individually and in her official capacity, is employed by the District as the Vice Principal of Southern Boone Middle School, and may be served at: 303 N. Main Street, Ashland, Missouri 65010.

8. Defendant Mellisa Pulkrabek (“hereinafter Pulkrabek”), individually and in her official capacity, is employed by the District as a teacher of Southern Boone Middle School, and may be served at: 303 N. Main Street, Ashland, Missouri 65010.

9. Defendant Tara Blue (“hereinafter Blue”), individually and in her official capacity, is employed by the District as a teacher of Southern Boone Middle School, and may be served at: 303 N. Main Street, Ashland, Missouri 65010.

10. Defendant Shelby Contrades (hereinafter “Contrades”), individually and in her official capacity, is employed by the District as a teacher of Southern Boone Middle School, and may be served at: 303 N. Main Street, Ashland, Missouri 65010.

11. Defendant Julie O’Reilly-Chapman (hereinafter “O’Reilly-Chapman”), individually and in her official capacity, is employed by the District as a librarian of Southern Boone Middle School, and may be served at: 303 N. Main Street, Ashland, Missouri 65010.

12. Defendant Ashely Roth (hereinafter “Roth”), individually and in her official capacity, is employed by the District as a counselor of Southern Boone Middle School, and may be served at: 303 N. Main Street, Ashland, Missouri 65010.

13. Defendant Brett Strauser (hereinafter “Strauser”), individually and in his official capacity, is employed by the District as a counselor of Southern Boone Middle School, and may be served at: 303 N. Main Street, Ashland, Missouri 65010.

14. Defendant Carolyn Pridemore (hereinafter “Pridemore”), individually and in her official capacity, is employed by the District as the 504 Coordinator, and may be served at: 303 N. Main Street, Ashland, Missouri 65010.

15. Defendant Dr. Tim Roth (hereinafter “Dr. Roth”), individually and in his official capacity, is employed by the district as the Interim Superintendent, and may be served at: 5275 West Red Tail Drive, Ashland, Missouri 65010.

JURISDICTION AND VENUE

16. Plaintiffs bring these claims under the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794; and Title II of the Americans with Disabilities Act of 1990 (“ADA”), as amended, 42 U.S.C. § 12131, et seq.

17. This Court has jurisdiction under 28 U.S.C. § 1331.

18. Venue is proper in this District under U.S.C. § 1391 (b) (1) and (2) and (c), as a substantial part of the events giving rise to Plaintiffs claims occurred within the Western District of Missouri.

19. All acts, omissions, transactions and occurrences alleged herein took place in Ashland, Southern Boone County, Missouri.

FACTUAL BACKGROUND

20. Plaintiffs' minor child is a person with a disability as the term is used under Section 504 of the Rehabilitation Act of 1973, and under the Americans with Disability Act.

21. At all times relevant hereto, Plaintiffs minor child has been diagnosed and suffers from Attention Deficit Hyperactivity Disorder (hereinafter "ADHD), has developed anxiety and depression, and, as such, he is a qualified individual with a disability under Section 504 of the Rehabilitation Act of 1973, and Section 12132 of the Americans with Disability Act.

22. At all times relevant hereto, C.S. has been enrolled, and continues to be enrolled as a student in the Southern Boone Middle School, located at 303 N. Main Street, Ashland, Missouri 65010.

23. C.S. has a 504 Plan that has not been followed by the District and has been violated by Defendants, who refuse to adequately follow and provide reasonable accommodation for the Plaintiffs' minor child.

24. C.S. 504 Plan is dated September 20, 2022, and is attached hereto as Exhibit A.

25. Defendants have openly spoken about C.S.' 504 Plan and issues with other students.

26. As a direct and proximate result of Defendants not following the 504 Plan, C.S. could not adequately adjust to the school year and receiving an appropriate education.

27. Plaintiffs seek damages for violations by Defendants of Section 504 of the Rehabilitation Act of 1973 (hereinafter "Act"), which bars discrimination against students with disabilities, including the failure to provide a free appropriate public education within the meaning of the Act, and also bars retaliation against the students or parents for disability related advocacy.

28. Plaintiffs have exhausted all potential administrative remedies internally regarding Section 504 claims. Families are not required to pursue internal processes in which districts determine whether they have violated Section 504.

29. Despite Plaintiffs multiple attempts to advocate for C.S., the District has yet to appropriately adhere to C.S.' 504 Plan, which has resulted in education inadequacies, adversely affecting the quality of C.S.' education.

30. The Board and District are bound by RSMo § 160.261.1(24), This statute provides in part as follows:

“...The policy shall at a minimum require school administrators to report, as soon as reasonably practical, to the appropriate law enforcement agency any of the following crimes, or any act which if committed by an adult would be one of the following crimes:

(24) Harassment under section 565.090. (A person commits the offense of harassment in the first degree if he or she, without good cause, engages in any act with the purpose to cause emotional distress to another person, and such act does cause such person to suffer emotional distress.)”

31. The Missouri courts and legislature have acknowledged that bullying as a form of harassment.

32. Defendant District, through its administrators, counselors, and teachers, specifically Justin Griffith, William Beaudoin, Ashley Bruce, Mellisa Pulkrabek, Shelby Contrades, Julie O'Reilly-Chapman, Ashley Roth, Brett Strauser, Carolyn Pridemore and Dr. Tim Roth, failed to follow the requirements of RSMo § 160.261.1(24) in failing to report the severe harassment suffered directly by Plaintiff C.S., or as a bystander, when bullying was repeatedly being directed towards him.

33. Defendant District was required pursuant to RSMo § 160.775 to have a policy regarding bullying.

34. RSMo § 160.775 provides as follows:

1. “Every district shall adopt an anti-bullying policy by September 1, 2007.
2. “Bullying” means intimidation or harassment that causes a reasonable student to fear for his or her physical safety or property. Bullying may consist of physical actions, including gestures, or oral, cyberbullying, electronic, or written communication, and any threat of retaliation for reporting of such acts.
3. Each district’s anti-bullying policy shall be founded on the assumption that all students need a safe learning environment. Policies shall treat students equally and shall not contain specific lists of protected classes of student who are to receive special treatment. Policies may include age-appropriate differences for schools based on the grade levels at the school. Each such policy shall contain a statement of the consequences of bullying.
4. Each district’s anti-bullying policy shall require district employees to report any instance of bullying of which the employee has firsthand knowledge. The district policy shall address training of employees in the requirements of the district policy.”

35. Defendants Board and District’s Board Policy Manual – Policy JFCF: Bullying, is attached hereto as Exhibit B.

36. Defendants Board and District’s anti-bullying policy, provided as follows:

“Intimidation, unwanted aggressive behavior, or harassment that is repetitive or is substantially likely to be repeated and causes a reasonable student to fear for his or her physical safety or property; that substantially interferes with the educational performance, opportunities or benefits of any student without exception; or that substantially disrupts the orderly operation of the school. Bullying includes, but is not limited to: physical actions, including violence, gestures, theft or property damages; oral, written or electronic communication, including name-calling, put-downs, extortion or threats; or threats of reprisal or retaliation for reporting such acts. Cyberbullying is a form of bullying committed by transmission of a communication including, but not limited to, a message, text, sound or image by means of an electronic device including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer or pager.

First Offense: Detention, in-school suspension, or 1-180 days out-of-school suspension.

Subsequent Offense: 1-180 days of out-of-school suspension or expulsion.”

37. C.S. is an adolescent male, age 10, enrolled at Southern Boone Middle School.

38. Throughout the school year C.S. has been subjected to name calling, tripping, kicking, pushing, threats of physical harm, told to “go die”, hit, and choked by students, and accused of lying by teachers and staff.

39. C.S. was told by more than one student, on multiple occasions, to “go kill himself,” and often times, when he was outnumbered, multiple students would approach him and taunt him, physically harm him, or humiliate him in some way.

40. Defendant Pulkrabek and Defendant O’Reilly-Chapman have called out C.S. in front of other students and entire classes stating that “everything is bullying to him”, further ostracizing C.S. in front of his peers; another form of bullying.

41. The District was aware that C.S. believed he was a victim of bullying and did nothing to meaningfully investigate and/or respond to the bullying.

42. C.S. was never encouraged by the schoolteachers or administration to report bullying and refused to acknowledge multiple instances within the District.

43. Due to District and Board oversight, little to no investigations or actions were taken regarding reported bullying that has led to C.S.’ distraught emotional state.

44. Multiple parents and students have repeatedly reported acts of bullying, harassment, and discrimination to the District, and received little to no action.

45. Bullying of C.S. started at the end of May 2022, while C.S. was in 4th grade. He was informed by another student to go kill himself.

46. Due to the severe nature of harassment and bullying C.S. has endured, C.S.’ pediatrician personally notified the school of the bullying issues on October 7th, 2022.

47. Due to the severe nature of the harassment and bullying that C.S. has endured, C.S. started therapy on or about October 20, 2022.

48. Plaintiffs came to an agreement with Defendant Griffith that they would not place C.S. and the student who started the bullying in May of 2022 in the same class starting the next school year.

49. Despite aforementioned agreement, C.S. and said student were placed in the same 5th grade class for the 2022-2023 school year.

50. Due to this severe harassment and bullying, C.S. has been disciplined in front of the class, and has received discipline for reporting instances of these issues.

51. C.S. was subjected to cruel, and inhumane harassment.

52. C.S.' mental disability, and perceived low intelligence, were a contributing factor in the harassment/bullying.

53. Defendants knew, or should have known, of the harassment, but failed to take prompt and effective remedial action.

54. Defendants have all breached their duty to protect C.S. and keep other students safe, in their refusal to adhere to their anti-bullying policy.

55. Teachers, counselors, and school administrators were made aware on multiple occasions that student were directing comments, physical harm, and humiliation towards C.S. due to a difference in their mental health status, appearance, popularity, disability, or intelligence. The manner in which this occurred was to repeatedly humiliate, embarrass, intimidate, and otherwise cause C.S. to be subjected to severe, pervasive, and persistent harassment in an abusive and hostile educational environment, which has deprived C.S. of his right to equally access proper education.

56. Defendants' failure to take prompt and effective remedial action in response to multiple complaints from C.S. and Plaintiffs' of said repeated bullying of C.S., denied C.S. the full and equal use and enjoyment of the advantages, facilities, services, and privileges of public schools, in that it turned his environment into one that was abusive, hostile, and not safe for his well-being.

57. As a result of the discrimination, bullying and harassment by Defendants, Plaintiffs' minor child has been placed at a severe risk of physical and psychological harm while at school.

COUNT I - FIRST STATEMENT OF CLAIM
42 U.S.C. § 1983

58. Plaintiffs incorporate and re-states their above averments 1 through 57 as if fully set forth.

59. C.S. is a student with a qualified disability by virtue of his diagnosis of ADHD.

60. Defendants, acting under color of state law, and under claim of authority granted them by the Missouri education laws and by the Department of Education rules and regulations, have collectively and individually engaged in actions, abuses and omissions, which have deprived C.S. of equal protection under the law, and have further deprived him of his rights under the United States Constitution.

61. At all times relevant to the complaint, C.S. has had a constitutionally protected right to equal protection under the law, and to enjoy equal privileges and rights as are afforded to all students, pursuant to the Equal Protection Clause of the Fourteenth Amendment to the United States.

62. Defendants violated C.S.' equal protection rights under the Fourteenth Amendment to the United States Constitution through their blatant discrimination against Plaintiffs' minor child.

63. Defendants' blatant refusal to abide by Plaintiffs' minor child, C.S.' 504 Plan and reasonably and adequately accommodate C.S.' qualified disability while at school, constitutes discrimination against said child.

64. Defendants deprived C.S. of his right equal protection secured by the Fourteenth Amendment to the United States Constitution by engaging in acts and conduct that includes, but is not limited to:

- a. Not accommodating C.S.' disabilities in order to allow him to be given an equal educational opportunity that students who are not otherwise disabled receive;
- b. Creating a dangerous environment for C.S. by failing to provide reasonable accommodations so that he may safely manage his ADHD, and thus allow him the opportunity to succeed in an educational setting, despite their knowledge that he desperately needed these accommodations.
- c. Placing C.S. at risk of significant physical, emotional, and psychological injury at school.
- d. Refusing to follow and otherwise blatantly disregarding and ignoring the accommodations previously agreed to and set forth in C.S.' current 504 Plan.

65. Defendants deprived C.S. of the right to be free from invidious discrimination due to his disability as guaranteed by the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act.

66. As a direct and proximate result of the acts by Defendants, Plaintiffs' minor child, C.S., did suffer and continues to suffer damages including but not limited to: physical trauma, emotional distress, pain and suffering, anxiety, depression, and other psychological trauma, the full extent of which remains currently unknown.

67. Plaintiffs are entitled to recover monetary damages for Defendants' violation of 42 U.S.C. § 1983.

68. Plaintiffs are entitled to recovery punitive damages for Defendants' violation of 42 U.S.C. § 1983.

COUNT II - SECOND STATEMENT OF CLAIM
DISABILITY DISCRIMINATION IN VIOLATION OF SECTION 504 OF THE
REHABILITATION ACT OF 1973, 29 U.S.C. § 794

69. Plaintiffs incorporate and re-states their above averments 1 through 68 as if fully set forth.

70. Plaintiffs' minor child's ADHD is a learning disability, which substantially limits one or more of C.S.' major life activities, as he is a qualified individual with a disability under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

71. Defendants are public entities/state actors of said entities, which receive federal and state funding, and provide educational services, programs, and activities to the public (i.e. public education) and are thus subject to suit under the Act.

72. As a result of C.S.' ADHD, Plaintiffs' minor child was subjected to, among other things, discrimination, harassment, and emotional abuse by reason of his disability.

73. The harassment and mistreatment of Plaintiffs minor child was sufficiently severe and pervasive such that it altered the condition of his education.

74. Defendants' failure to provide reasonable accommodations to Plaintiffs' minor child subjected C.S. to an atmosphere of discrimination within Southern Boone Middle School.

75. Defendants were deliberately indifferent to the healthcare needs of Plaintiffs' minor child, C.S., so that he may receive the same level of education that otherwise non-disabled students receive, while adequately and effectively managing his ADHD.

76. As a result of the discrimination, Plaintiffs' minor child, C.S., was deprived of educational benefits, specifically, a supportive, scholastic environment free from discrimination and harassment.

77. Due to Defendants' deliberate indifference to Plaintiffs' minor child's disabilities, as well as Defendants' failure to provide reasonable accommodations to Plaintiffs' minor child, C.S. was denied the opportunity to participate in or benefit from Southern Boone Middle School's services, programs, or activities.

78. Plaintiffs are entitled to recover monetary damages for Defendants' violations of 29 U.S.C. § 794.

79. Plaintiffs are entitled to recover punitive damages for Defendants' violations of 29 U.S.C. § 794.

COUNT III - THIRD STATEMENT OF CLAIM
VIOLATION OF RSMo § 160.775 AND DISTRICT POLICIES

80. Plaintiff incorporates and re-state their above averments 1 through 79 as if fully set forth.

81. Defendants' actions and inactions enhanced the danger to Plaintiffs minor child, C.S., by rendering him more vulnerable to the deprivation of his rights to an equally safe education, bodily integrity, and security, through numerous affirmative acts, including, but not limited to:

- a. Failing to comply with and otherwise violating their own anti-bullying policy departmental rules;
- b. Failing to comply with and otherwise violating state and federal anti-discrimination laws;
- c. Failing to comply with and otherwise violating state anti-bullying laws;
- d. Affirmatively discouraging victims of bullying from reporting bullying through inaction or telling the victim to point out the kids while in front of other students, which discourages the children that get bullied from reporting;
- e. Affirmatively discouraging victims of bullying by taking no action causing victims of bullying to know that reporting bullying would be hopeless and harmful in that C.S. would be subjected to retaliation;
- f. Affirmatively enhancing C.S.' vulnerability to abuse; and
- g. Affirmatively encouraging further abuse by bullies in the District, by knowingly misrepresenting that there was no bullying occurring in the schools, and by failing to take any meaningful action as required when bullying acts are made known to them, thereby creating a culture where certain students somehow had the right to bully.

82. These affirmative acts and/or omissions by the District, taken as a whole and in the context of a known bullying culture in the District, increased the danger to Plaintiffs' minor child, C.S., and such conduct amounts to shocking, egregious, and outrageous behavior.

83. Plaintiffs' have incurred necessary and reasonable medical expenses, suffered physical pain, mental anguish, and has experienced other economic hardships, all as a direct and proximate result of Defendants' actions or lack thereof.

COUNT IV - FOURTH STATEMENT OF CLAIM
VIOLATION OF MINISTERIAL DUTIES

84. Plaintiff incorporates and re-state their above averments 1 through 83 as if fully set forth.

85. Public employees are not immune from liability for harm caused, or contributed to be caused, by violations of their departmentally mandated duty, duty imposed by statute, or duty imposed by regulation.

86. Departmentally mandated duties may arise from sources other than statutes or regulations which include, but are not limited to, internal policies, rules, including training materials used to show what actions can and cannot be taken when presented with certain facts, orders from a superior. This shows that the employee is required to act in a certain way without regard to his or her own judgment or opinion concerning the propriety of the act to be performed.

87. As set forth with sufficient specificity in the paragraphs above and below, each of the Defendants' actions and inactions alone or together constituted violations of departmentally mandated rules, duties imposed by statute, or duties imposed by regulations, in that:

- a. Defendants failed to comply with or act in a manner required by the Board and District's anti-bullying policy;
- b. Defendants failed to comply with or act in a manner required by the Board and District's anti-discrimination policy;
- c. Defendants' actions and inactions in response to repeated complaints, knowledge of bullying, harassment, and discrimination towards Plaintiffs' minor child, C.S., illustrate a complete failure to comply with the following Federal and Missouri statutes: TITLE IX, 42 U.S.C. Section 1983, Section 504 of the Rehabilitation Act, RSMo § 60.261.1, RSMo § 160.775, and RSMo § 213.065.

- d. Defendants' actions and inactions constitute violations of regulations regarding Anti-Bullying, Discrimination, and Suicide Prevention;
- e. Defendants' by and through their actions and inactions as alleged above and below herein, violated other departmentally mandated duties, statutory duties, or regulations unknown at this time but will be discovered and developed with the evidence in this case.

88. Defendants' actions and inactions, as more specifically alleged herein, constitute violations of their ministerial function and/or duty, directly caused or contributed to cause Plaintiffs' minor child, C.S., mental, physical, and emotional distress.

89. Plaintiffs' minor child, C.S., was under the custody, care, and control of Defendants', while a student at Southern Boone Middle School.

90. The Board and District exercise significant control over its students through its disciplinary policy.

91. There were multiple individuals who repeatedly acted with the intention of making C.S. feel intimidated, threatened, fearful, apprehensive for his safety, humiliated, degraded, ostracized, subservient, less important, unworthy because of his physical appearance, socioeconomic status, intelligence, or other characteristics.

92. There were multiple individuals allowed to engage in pervasive harassment and bullying toward C.S.

93. Defendants knew that readily identifiable students within their custody and control were engaging in numbers acts that constituted as bullying under their anti-bullying policy.

94. Defendants' response towards complaints regarding acts of bullying was to systematically and repeatedly fail to discourage, acknowledge, remediate, investigate, notify, and reprimand the bad actors involved in the repeated acts of bullying occurring at Southern Boone Middle School, which allowed said bad actors to systematically continue to repeat and increase the frequency and intensity of the bullying acts towards C.S.'. Such failures of Defendants' ultimately caused and contributed to C.S.' mental and emotional suffering.

95. As a direct and proximate result of the aforementioned acts and omissions, C.S. suffered humiliation, anxiety, indignity, depressed mood, along with mental and emotional anguish.

96. Pursuant to 42 U.S.C. § 1988(b), Plaintiffs minor child is entitled to recover reasonable attorney fees and costs incurred in bringing this action.

97. As a direct and proximate result of the mental and emotional anguish, Plaintiffs were required to expend, incur, and become indebted for medical expenses.

COUNT V - FIFTH STATEMENT OF CLAIM
DISCRIMINATION IN PUBLIC ACCOMMODATIONS

98. Plaintiff incorporates and re-state their above averments 1 through 97 as if fully set forth.

99. RSMo § 213.065 prohibits discrimination in any place of public accommodation.

100. RSMo § 213.065 encompasses discrimination based on harassment and conduct that amounts to bullying.

101. RSMo § 213.065 imposes liability directly and indirectly, and as such it imposes liability on those officials who are responsible for the denial of equal access to the enjoyment of public accommodation.

102. Defendants' failure to take prompt and effective remedial measures, caused or contributed to cause Plaintiffs' minor child, C.S. to suffer continuous bullying that directly caused, or contributed to cause, him to suffer mental, physical, and emotional anguish.

103. As a direct and proximate result of Defendants' failure to effectively act on such claims of discrimination, harassment, and bullying, Plaintiffs' were caused to expend, incur, and become indebted for medical expenses and other monetary losses.

COUNT VI - SIXTH STATEMENT OF CLAIM
NEGLIGENCE

104. Plaintiff incorporates and re-state their above averments 1 through 103 as if fully set forth.

105. While a student in the District, C.S. was under the custody, care and control of said District.

106. Generally, school districts exercise significant control over their students through their disciplinary policies.

107. There were multiple students who repeatedly acted with the intention of making C.S. feel intimidated, threatened, fearful, apprehensive for his safety, humiliated, degraded, ostracized, less important, and unworthy due to his ADHD, physical appearance, socioeconomic status, intelligence, or other characteristics.

108. There were multiple students allowed to repeatedly engage in name calling towards C.S. during the school year and prior year.

109. At the time of the events described herein, Defendants knew students within its custody and control were engaging in bullying behavior as it is explained in its own anti-bullying policy.

110. At all times in which C.S. was a student in the school district, Defendants had a duty to possess and use the same degree of care ordinarily used by reasonable and/or careful similarly situated school districts to properly supervise its students and to protect them from foreseeable and unreasonable risks of harm posed by students under the district's custody and control.

111. Defendants failed in its duty to properly supervise its students and to intervene effectively to stop the abuse C.S. was suffering at the hands of other students by:

- a. Negligently and carelessly failing to monitor the classrooms, lunchrooms, hallways, locker rooms, school busses, and the school campus for physical and verbal abuse;
- b. Negligently and carelessly failing to timely recognize the severity of the abuse against C.S.;
- c. Negligently and carelessly failing to properly address the abuse against C.S.;
- d. Negligent and carelessly failing to ensure that C.S. was put in a safe learning environment;
- e. Negligently and carelessly failing to supervise the students who were abusing C.S.;
- f. Negligently and carelessly failing to comply with the Board and District's own bullying policy, as well as its harassment and/or assault policies;
- g. Negligently and carelessly failing to discipline or otherwise discourage the behavior of students who were physically and verbally abusing C.S.;

h. Negligently and carelessly affirmatively promoting the idea that C.S. was not being treated in any way that they wanted to correct or discourage to any degree, and that such complaints did not even warrant investigations;

i. Negligently and carelessly ignoring C.S.' please for aid against abusers;

j. Negligently and carelessly committing acts and omissions that encouraged continual acts of bullying to take place against C.S.;

k. Negligently and carelessly contributing to cause of C.S.' emotional distress and collapse by punishing C.S. for some of his defensive behavior that he engaged in, in an attempt to avoid further degradation, exclusion, humiliation, intimidation, and other emotionally damaging feelings caused, or contributed to be caused, by repeated and systematic acts of bullying that were encouraged through inaction by the Defendants, by standing up for himself when no one else would.

l. Negligently and carelessly ignoring the continued pleas of the Plaintiffs, and others to address the bullying problems;

m. Negligently and carelessly failing to comply with anti-bullying policies and laws that were in place which required meaningful actions to be taken yet were not;

n. Negligently and carelessly committing other acts and omissions as yet unknown to Plaintiffs but will be revealed during the discovery and development of evidence in this case.

112. Plaintiffs' minor child, C.S. suffered medically significant and diagnosable emotional distress as a direct and proximate result of the Defendants' negligent and careless acts and omissions.

113. Plaintiffs' minor child, C.S. suffered from severe mental anguish that was caused

or contributed to be caused by the Defendants' negligent acts and omissions as stated more fully herein, and which violations were ministerial in nature. The Defendants' is vicariously liable for its employees' negligence.

114. As a direct and proximate result of Defendants' negligence, Plaintiffs' have incurred necessary and reasonable medical expenses, and C.S. has suffered physical pain, and mental anguish.

COUNT VII - SEVENTH STATEMENT OF CLAIM
WRECKLESS INFLICTION OF EMOTIONAL DISTRESS

115. Plaintiff incorporates and re-state their above averments 1 through 114 as if fully set forth.

116. Defendants breached duties owed to C.S., as alleged in all prior claims.

117. Defendants committed negligence and tortious acts against Plaintiffs' and their minor child, C.S., as alleged in all prior claims.

118. At the time of its negligent acts and omissions, Defendants' should have known that continuous abuse by classmates causes victims to suffer from one or more of the following: lack of motivation at school, increased absenteeism, eating disorders, chronic anxiety, depression, psychiatric problems, and suicidal tendencies, this suffering becomes worsened through the inaction of those served to protect the schools' children.

119. C.S. suffered medically significant and diagnosable emotional distress as a direct and proximate result of the Defendants' negligent and careless acts and omissions.

120. C.S. suffered physical pain, and mental anguish, due to Defendants' negligence caused, or contributed cause, to cause such harm.

121. As a direct and proximate result of Defendants' negligence, Plaintiffs' have

incurred necessary and reasonable medical expenses, and C.S. has suffered physical pain, and mental anguish.

COUNT VIII - EIGHTH STATEMENT OF CLAIM
42 § 1983 - DEPRIVATION OF FEDERAL RIGHTS

122. Plaintiff incorporates and re-state their above averments 1 through 121 as if fully set forth.

123. Defendant Southern Boone School District is a political subdivision of the State of Missouri.

124. By engaging in the above-described misconduct, and by acting pursuant to its custom, practice, and policy, the Defendants' actions and inactions were performed under color of state law, and violated Plaintiffs' minor child, C.S.', federally protected civil rights under 42 U.S.C. §1983, including C.S.' right to be free from repeated acts of bullying, in violation of his right to be in a safe place for his education.

125. The acts and omissions of the Defendants' complained of herein, were either intentional, reckless, and/or performed with a deliberate indifference to C.S.' well-being, and deprived C.S. of his constitutionally protected rights to be free from discrimination and bullying.

126. As a direct and proximate result of the aforementioned acts and omissions, C.S. suffered humiliation, anxiety, indignity, depressed mood, along with mental and emotional anguish.

127. Pursuant to 42 U.S.C. § 1988(b), Plaintiffs minor child is entitled to recover reasonable attorney fees and costs incurred in bringing this action.

128. As a direct and proximate result of the mental and emotional anguish, Plaintiffs were required to expend, incur, and become indebted for medical expenses.

129. Plaintiffs are entitled to recover monetary damages for Defendants' violations of 42 U.S.C. § 1983.

130. Plaintiffs are entitled to recover punitive damages for Defendants' violations of 42 U.S.C. § 1983.

COUNT VIII - NINTH STATEMENT OF CLAIM
STATE CREATED DANGER

131. Plaintiff incorporates and re-state their above averments 1 through 130 as if fully set forth.

132. Missouri has chosen to provide a free public education to its children. C.S. has a constitutional property right to a free public education protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

133. C.S. also has constitutional rights to bodily integrity, to due process, to be secure, and to life protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

134. Defendants' actions and inactions were done in their capacity as agents of the District, individually, and were done under the color of state law.

135. At the time of Defendants' actions and inactions, Defendants knew, or should have known, that a culture of bullying existed within the District, including, but not limited to, Southern Boone Middle School.

136. At the time of Defendants' actions and inactions, Defendants had actual knowledge of ongoing and severe abuse suffered by C.S. from students who engaged in such bullying while under custody and control of the District, and that the abuse deprived C.S. to his

right to a safe education, bodily integrity, and right to be free from harmful, long lasting, and sometimes fatal effects that are caused by bullying.

137. At the time of Defendants' actions and inactions, the Defendants knew which students were bullying, harassing, and physically harming C.S.

138. Plaintiffs and their minor child C.S., have incurred necessary and reasonable medical expenses, suffered physical pain, mental anguish, other economic hardships, and humiliation as a direct and proximate result of Defendants lack of action.

139. Defendants conduct caused, or contributed to cause, C.S. mental and emotional anguish, and Plaintiffs' have been damaged and are entitled to fair and reasonable compensation.

140. Pursuant to 42 U.S.C. § 1988(b), Plaintiffs minor child is entitled to recover reasonable attorney fees and costs incurred in bringing this action.

141. As a direct and proximate result of the mental and emotional anguish, Plaintiffs were required to expend, incur, and become indebted for medical expenses.

COUNT X - TENTH STATEMENT OF CLAIM
SUPERVISORY LIABILITY FOR PARTICIPATION
IN AND ENCOURAGEMENT OF UNCONSTITUTIONAL
MISCONDUCT BY SUBORDINATES (42 U.S.C. § 1983)

142. Plaintiff incorporates and re-state their above averments 1 through 141 as if fully set forth.

143. At all times relevant to this Complaint, Principal Griffith had supervisory authority over all of the teachers and employees at Southern Boone Middle School.

144. At all times relevant to this Complaint, Vice Principal Beaudoin, had supervisory authority over all teachers and employees at Southern Boone Middle School.

145. At all times relevant to this Complaint, Vice Principal Bruce, had supervisory authority over all teachers and employees at Southern Boone Middle School.

146. At all times relevant to this Complaint, Defendants Dr. Roth, Griffith, Beaudoin, and Bruce were acting under color of federal and state law in both their individual and official capacities.

147. Defendant Dr. Roth knew, or should have known, that Griffith, Beaudoin, Bruce, along with other teachers and administrators in the District were unconstitutionally placing students, including C.S., in increased danger of severe, ongoing, and targeted bullying, and the resulting foreseeable deprivations of their constitutional rights to a public education, to bodily integrity, to be secure, to life, and to substantiate due process under the Fourteenth Amendment to the Constitution of the United States.

148. Defendant Griffith knew, or should have known, that teachers and other employees at Southern Boone Middle School were placing students, in increased danger of severe, ongoing, and targeted bullying and the resulting deprivation of their constitutional rights to a public education, to bodily integrity, to life, to be secure, and to substantiate due process under the Fourteenth Amendment to the Constitution of the United States.

149. Defendant Beaudoin and Defendant Bruce knew, or should have known, that teachers and other employees at Southern Boone Middle School were placing students, in increased danger of severe, ongoing, and targeted bullying and the resulting deprivation of their constitutional rights to a public education, to bodily integrity, to life, to be secure, and to substantiate due process under the Fourteenth Amendment to the Constitution of the United States.

150. By rejecting the implementation of, or refusing to comply with, proven anti-bullying policies and law, and/or refusing to intervene to prevent his subordinates' continuing pattern of unconstitutional misconduct and inaction toward C.S. Defendant Dr. Roth encouraged

conduct which demonstrated a deliberate indifference to, or tacit authorization of, his subordinates' offensive acts and/or omissions.

151. By rejecting the implementation of, or refusing to comply with, proven anti-bullying policies and law, and/or refusing to intervene to prevent, their subordinates' continuing pattern of unconstitutional misconduct and inaction toward C.S. Defendant Griffith, Defendant Beaudoin, and Defendant Bruce encouraged conduct which demonstrated a deliberate indifference to, or tacit authorization of, their subordinates' offensive acts and/or omissions.

152. Plaintiffs and their minor child C.S., have incurred necessary and reasonable medical expenses, suffered physical pain, mental anguish, other economic hardships, and humiliation as a direct and proximate result of Defendants lack of action.

153. Defendants' conduct caused, or contributed to cause, C.S. mental and emotional anguish, and Plaintiffs' have been damaged and are entitled to fair and reasonable compensation.

154. Pursuant to 42 U.S.C. § 1988(b), Plaintiffs minor child is entitled to recover reasonable attorney fees and costs incurred in bringing this action.

155. As a direct and proximate result of the mental and emotional anguish, Plaintiffs were required to expend, incur, and become indebted for medical expenses.

156. Plaintiffs are entitled to recover monetary damages for Defendants' violations of 42 U.S.C. §1983.

157. Plaintiffs are entitled to recover punitive damages for Defendants' violations of 42 U.S.C. § 1983.

COUNT XI - ELEVENTH STATEMENT OF CLAIM
DENIAL OF SUBSTANTIVE DUE PROCESS THROUGH
FAILURE TO TRAIN AND SUPERVISE (42 U.S.C. § 1983)

158. Plaintiff incorporates and re-state their above averments 1 through 157 as if

fully set forth.

159. Research has told the public and educators, for many years, that severe, ongoing, and targeted bullying in schools is pervasive and routinely results in clinical depression, anxiety, suicidal thoughts, and suicide among its targeted victims.

160. When complied with, anti-bullying policies and laws have been proven to reduce and prevent severe, ongoing, and targeted bullying and to transform bullying school cultures into positive and supportive school cultures.

161. The Defendants actually knew, or should have known, of severe, ongoing, and targeted bullying in its schools.

162. Defendants should have known, and/or did actually know, that the consistent response to C.S.'s victimization was to ignore that bullying and punish or deter victims of bullying when they would stand up to their tormentors with verbal threats of their own.

163. Defendants should have known, and/or did actually know, that the likelihood of current and future deprivations of constitutionally protected rights to an education, to bodily integrity, to be secure, and to life were all a natural and obvious and/or reasonably anticipated and foreseeable results.

164. As trained educators, all officials and teachers in the District were required to be aware of effective bullying prevention strategies and appropriate responses to bullying incidents.

165. As a result of the Defendant District's failure to train and supervise its employees and agents, C.S. was deprived of his rights to a free public education, to bodily integrity, to be secure, to life, and his rights to substantive due process under the Fourteenth Amendment of the United States Constitution.

166. Plaintiffs and their minor child C.S., have incurred necessary and reasonable medical expenses, suffered physical pain, mental anguish, other economic hardships, and humiliation as a direct and proximate result of Defendants lack of action.

167. Defendants conduct caused, or contributed to cause, C.S. to suffer mental and emotional anguish, and Plaintiffs' have been damaged and are entitled to fair and reasonable compensation.

168. Pursuant to 42 U.S.C. § 1988(b), Plaintiffs minor child is entitled to recover reasonable attorney fees and costs incurred in bringing this action.

169. As a direct and proximate result of the mental and emotional anguish, Plaintiffs were required to expend, incur, and become indebted for medical expenses.

170. Plaintiffs are entitled to recover monetary damages for Defendants' violations of 42 U.S.C. § 1983.

171. Plaintiffs are entitled to recover punitive damages for Defendants' violations of 42 U.S.C. § 1983.

COUNT XII - TWELFTH STATEMENT OF CLAIM
DENIAL OF SUBSTANTIVE DUE PROCESS THROUGH
A POLICY, CUSTOM, AND PRACTICE OF FAILING TO RESPOND
OR PREVENT BULLYING IN ITS SCHOOLS (42 U.S.C. § 1983)

172. Plaintiff incorporates and re-state their above averments 1 through 171 as if fully set forth.

173. Defendants knew or should have known, that there existed among administrators, counselors, and teachers a continuing, widespread and persistent pattern of failing to respond appropriately to bullying incidents, including those incidents in which C.S. was the victim.

174. Defendants knew, or should have known, that there existed a continuing, widespread, and persistent pattern of administrators failing to implement or ensure compliance

with its anti-bullying policy, departmental rules, regulations, and state laws meant to prevent bullying and at a minimum ensure that appropriate responses to bullying incidents are made to avoid further harm towards a victim by not having anyone stand up for them, including bullying incidents like those in which C.S. was the victim.

175. Defendants knew, or should have known, that such failures were causing its students, including C.S., to suffer deprivations of their rights to a public education, to bodily integrity, to be secure, to life, and substantive due process under the Fourteenth Amendment to the United States Constitution.

176. Defendants maintained a practice of inappropriate and impermissible responses to known bullying incidents, a practice of rejecting the implementation of, or not complying with, proven bullying prevention policies and laws, and a practice of allowing bullying incidents and a bullying culture to continue unchecked within the district's schools.

177. Defendants' actions and inactions show a deliberate indifference to or tacit approval of the unconstitutional misconduct of its employees and a deliberate indifference to C.S.' rights to a public education, to bodily integrity, to life, to be secure, and substantive due process under the Fourteenth Amendment to the United States Constitution.

178. Defendants' actions and inactions caused, or contributed to cause, C.S. to suffer mental, physical, and emotional anguish.

179. Plaintiffs and their minor child C.S., have incurred necessary and reasonable medical expenses, suffered physical pain, mental anguish, other economic hardships, and humiliation as a direct and proximate result of Defendants lack of action.

180. By reason of the foregoing, such conduct caused, or contributed to cause, C.S. mental and emotional anguish, and Plaintiffs' have been damaged and are entitled to fair and reasonable compensation.

181. Pursuant to 42 U.S.C. § 1988(b), Plaintiffs minor child is entitled to recover reasonable attorney fees and costs incurred in bringing this action.

182. As a direct and proximate result of the mental and emotional anguish, Plaintiffs were required to expend, incur, and become indebted for medical expenses.

183. Plaintiffs are entitled to recover monetary damages for Defendants' violations of 42 U.S.C. § 1983.

184. Plaintiffs are entitled to recover punitive damages for Defendants' violations of 42 U.S.C. § 1983.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, Tawnya Samuel and Michael Samuel, respectfully request the Honorable Court to enter Judgment in their favor and against the Defendants, Southern Boone School District, The Board of Education of the Southern Boone School District, Justin Griffith, William Beaudoin, Ashley Bruce, Melissa Pulkrabek, Tara Blue, Shelby Contrades, Julie O'reilly-Chapman, Ashley Roth, Brett Strauser, Carolyn Pridemore, and Dr. Tim Roth, jointly and severally, in an amount in excess of \$75,000.00 and for such other and further relief as this court deems just, proper, and equitable, including the following:

A. On Plaintiffs first cause of actions for:

- i. Compensatory damages to be determined by the trier of fact;
- ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and

- iii. Punitive damages to be determined by the trier of fact.
- B. On Plaintiffs second cause of actions for:
- i. Compensatory damages to be determined by the trier of fact;
 - ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and
 - iii. Punitive damages to be determined by the trier of fact.
- C. On Plaintiffs third cause of actions for:
- i. Compensatory damages to be determined by the trier of fact;
 - ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and
 - iii. Punitive damages to be determined by the trier of fact.
- D. On Plaintiffs fourth cause of actions for:
- i. Compensatory damages to be determined by the trier of fact;
 - ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and
 - iii. Punitive damages to be determined by the trier of fact.
- E. On Plaintiffs fifth cause of actions for:
- i. Compensatory damages to be determined by the trier of fact;
 - ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and
 - iii. Punitive damages to be determined by the trier of fact.
- F. On Plaintiffs sixth cause of actions for:
- i. Compensatory damages to be determined by the trier of fact;

ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and

iii. Punitive damages to be determined by the trier of fact.

G. On Plaintiffs seventh cause of actions for:

i. Compensatory damages to be determined by the trier of fact;

ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and

iii. Punitive damages to be determined by the trier of fact.

H. On Plaintiffs eighth cause of actions for:

i. Compensatory damages to be determined by the trier of fact;

ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and

iii. Punitive damages to be determined by the trier of fact.

I. On Plaintiffs ninth cause of actions for:

i. Compensatory damages to be determined by the trier of fact;

ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and

iii. Punitive damages to be determined by the trier of fact.

J. On Plaintiffs tenth cause of actions for:

i. Compensatory damages to be determined by the trier of fact;

ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and

iii. Punitive damages to be determined by the trier of fact.

K. On Plaintiffs eleventh cause of actions for:

- i. Compensatory damages to be determined by the trier of fact;
- ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and
- iii. Punitive damages to be determined by the trier of fact.

L. On Plaintiffs twelfth cause for actions for:

- i. Compensatory damages to be determined by the trier of fact;
- ii. Reasonable attorney's fees and costs incurred by Plaintiffs in the prosecution of the instant action; and
- iii. Punitive damages to be determined by the trier of fact.

M. Grant Plaintiffs permanent injunction against Defendants so that Plaintiffs may receive the accommodation for C.S. as previously agreed to in his 504 Plan.

N. Grant Plaintiffs such other, further and different relief as to this Court may be just, proper and equitable under the circumstances.

REQUEST FOR TRIAL BY JURY

Plaintiffs, by and through their attorney, hereby request trial by jury on all issues so triable.

Dated: Kansas City, Missouri
June 16th, 2023

Respectfully Submitted,
DEVKOTA LAW FIRM, L.L.C.

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