

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHTERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JANE DOE,)	
)	Civil Action No. _____
Plaintiff,)	
)	
v.)	
)	
GWINNETT COUNTY PUBLIC)	COMPLAINT AND JURY
SCHOOLS)	DEMAND
)	
Defendant.)	

COMPLAINT

Plaintiff, Jane Doe (“Ms. Doe”), brings this action against Defendant Gwinnett County Public Schools (“GCPS”) for Defendant’s violations of her rights under Title IX of the Education Amendments of 1972 (“Title IX”), 20 U.S.C. § 1681, *et seq.*, and violations of her rights to equal protection of the laws under the Fourteenth Amendment to the U.S. Constitution and federal rights under Title IX, pursuant to 42 U.S.C. § 1983.

INTRODUCTION

1. This is a civil rights case brought by Ms. Doe, a former student at GCPS, who school officials punished and retaliated against for reporting that a fellow student had sexually assaulted her at Peachtree Ridge High School (“PRHS”).

2. On February 4, 2015, shortly after school had finished for the day, Ms. Doe, a sophomore at the time, was sexually battered and forcibly orally sodomized by male student “MP”¹ at Peachtree Ridge High (“PRHS”) in Suwanee, Georgia. The very next morning, Ms. Doe reported MP’s sexual violence to school officials.

3. Defendant, by and through its school officials, immediately blamed Ms. Doe for provoking the attack, not doing more to resist it, and not reporting it sooner. School Resource Officer Tony Lockard asked Ms. Doe: “**What were you wearing?**” and “**Why didn’t you bite his penis?**”

4. School officials, who had little, if any, training or experience with respect to properly responding to reports of student-against-student sexual harassment, insisted that Ms. Doe repeatedly recount to them the horrific and humiliating details of MP’s sexual violence, and even demanded that she *physically reenact* MP’s attack against her, in the same room where the sexual assault occurred less than 24-hours earlier.

5. Instead of investigating and resolving the sexual assault committed by MP, Defendant suspended Ms. Doe pending a disciplinary hearing for *her* alleged

¹ For purposes of this Complaint, the then-minor male perpetrator is referred to as “MP,” which does not reveal his true initials, in compliance Fed. R. Civ. P. 5.2(a) requiring the protection of a minor person’s identity in public court filings.

sexual misconduct. During the hearing, both the attorneys for both MP and the Defendant subjected Ms. Doe to brutal cross-examinations. Defendant's attorney, Creighton Lancaster, advocated *for* MP, and *against* Ms. Doe, stating on the record that he did not believe Ms. Doe because she "**chose not to scream louder and louder as this was going on,**" did not suffer physical injury in her attempt to stop MP's attack, and waited until the morning after the assault to report it. These interrogations were abusive, belittling and harassing towards Ms. Doe, a traumatized young woman in only her second year of high school, to such an objectionable degree that it likely never would have been permitted in a court of law. Moreover, it was a far cry from the "equitable" proceeding required under Title IX. Even under such duress, Ms. Doe did not waiver; she again recounted the details of the sexual assault and resisted the numerous attempts to discredit her.

6. Making matters even worse, Defendant then *punished* Ms. Doe and suspended her *a second time*, all because she had reported MP's sexual violence against her, a protected activity under Title IX.

7. When Defendant finally permitted Ms. Doe to return to school, students harassed her and called her "whore," "liar," "slut," and "psycho." One male student menacingly remarked to her, "I wish I was [MP]." Despite receiving multiple reports about students bullying Ms. Doe, school officials chose not to take

any meaningful action to stop the continuing torment of Ms. Doe and the ongoing hostile educational environment at PRHS. The Doe family, left with no other option to protect Ms. Doe, withdrew her from PRHS and, ultimately, moved away from Gwinnett County.

8. Ms. Doe seeks recovery for the significant damages she has suffered as a result of Defendant's violations of her civil and constitutional rights.

JURISDICTION & VENUE

9. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because this litigation involves matters of federal law, specifically claims made under Title IX, 20 U.S.C. § 1681 *et seq.*, and claims for deprivation of civil rights and rights under the U.S. Constitution, pursuant to 42 U.S.C. § 1983.

10. This Court also has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1343(a)(3) & (4) because Plaintiff seeks redress and damages deprivation of civil and federal rights under 42 U.S.C. § 1983.

11. This Court has personal jurisdiction over Defendant pursuant to Federal Rule of Civil Procedure 4(k)(1) because Defendant, upon information and belief, is located and regularly conducts business in this jurisdiction and because the conduct giving rise to this cause of action occurred in this Judicial District.

12. Venue in this District is proper pursuant to 28 U.S.C. § 1391 because Defendant is located within the Judicial District and the events and omissions giving rise to the Complaint occurred in this District.

PARTIES

13. Plaintiff, Jane Doe (“Ms. Doe”), is a former PRHS student.² At the time she suffered sexual assault, sexual harassment and sex discrimination at PRHS, she was a minor and a resident of Gwinnett County, Georgia. She now is a 19-year-old resident of Fulton County, Georgia. This Complaint is filed prior to Ms. Doe’s 20th birthday, and accordingly, is filed within the applicable statute of limitations.

14. Defendant GCPS is a recipient of federal funds within the meaning of 20 U.S.C. § 1681, *et seq.* GCPS geographically lies within Gwinnett County, Georgia.

FACTS

The Sexual Assault

15. In February 2015, 16-year-old Ms. Doe was a sophomore student at PRHS.

² In this matter Ms. Doe has filed a Motion for Leave to Proceed Under Pseudonym and Memorandum in Support Thereof for the sole purpose of protecting her identity and privacy as a victim of rape in this highly personal and sensitive matter.

16. MP also was a student at PRHS in February of 2015.

17. On February 4, 2015, shortly after the end of the school day, Ms. Doe was waiting for her mother to pick her up from school. MP asked Ms. Doe if she would like to see the Ridge Vision News (“RVN”) room located in PRHS. Ms. Doe was curious because she had not seen the RVN room before, and she agreed. By school policy and rules, the RVN room should have been locked and those in the room subject to direct supervision.

18. As Ms. Doe informed school officials in multiple consistent reports, after she and MP went into the RVN room, MP grabbed her hips, pulled her to him, fondled her buttocks, and started pulling down her pants. Ms. Doe affirmatively demonstrated her lack of consent by pushing his hands away and saying, “No, stop!” and “What are you doing?”

19. MP then restrained Ms. Doe, pushed her into a chair, positioned himself above her, and forcibly kissed her, thrusting his tongue in her mouth. He threatened, “You can’t leave until you suck my dick.” MP unzipped his pants, pulled out his penis, grabbed Ms. Doe’s head and hair, and shoved his penis into her mouth, while Ms. Doe was terrified, in shock, gagging, and crying.

20. MP eventually released Ms. Doe and began masturbating himself. Ms. Doe quickly grabbed her book bag, left the room, wiped her tears, and went to

meet her mother, who had arrived at the school to pick her up.

21. MP then text messaged a friend about the assault, stating he felt “guilty” about “doing something he shouldn’t have done.”

Defendant Punishes Ms. Doe for Reporting Sexual Assault

22. On February 5, 2015, early in the morning after the assault, Ms. Doe reported MP’s sexual violence to her first period teacher, Kristen Powell. Ms. Doe was visibly distraught and crying when she told Ms. Powell about the sexual assault. Ms. Powell directed her to another teacher Ms. Doe knew well and trusted, Linda Brimmer.

23. Ms. Brimmer immediately understood something was wrong when she, too, saw that Ms. Doe was upset. After Ms. Doe told her about MP’s sexual assault, Ms. Brimmer took Ms. Doe to meet with Officer Lockard.

24. Over the course of that and the following day, Officer Lockard and PRHS Assistant Principals Lee Augmon, LaShawnia Stinson, and Jon Weyher interviewed and questioned Ms. Doe, and insisted she repeatedly recount the details of MP’s sexual violence against her.

25. Officer Lockard asked Ms. Doe the following questions:

“Why didn’t you bite his penis?”

“Why didn’t you grab his balls?”

“What were you wearing?”

“Did you scream?”

“Are you sure you didn’t want to have oral sex with him?”

26. School officials also took Ms. Doe back to the RVN room, the same room where Ms. Doe just had been sexually violated by MP, and insisted she reenact the attack for them.

27. On February 6, 2015, traumatized, Ms. Doe did not attend school. However, school officials insisted that she come back to the school for additional questioning. The Doe family complied, and Ms. Doe was, again, forced to recount the humiliating and horrific details of M.P.’s sexual assault against her.

28. Assistant Principal Stinson, who was in charge of the school’s attendance office, questioned Ms. Doe with her stepfather present. Apparently, Defendant had designated her as the Title IX Coordinator – a fact she failed to inform Ms. Doe or her stepfather about.

29. At that time, Defendant did not provide any information about the Title IX Coordinator on the PRHS website to properly notify parents and students.

30. On February 9, 2015, Ms. Doe stayed home from school, distraught, and afraid of encountering MP at school and what would happen when she

returned to classes. School officials asked that Ms. Doe and her family come in for another meeting the following day.

31. During the meeting on February 10, 2015, school officials suspended Ms. Doe from school for a week. School officials also charged Ms. Doe with violating Rule 9G of the school's sexual misconduct policy for supposedly "participating" in oral sex on school property, and that they were not pursuing Ms. Doe's sexual assault complaint against MP. School officials informed the Doe family that a disciplinary hearing against Ms. Doe would take place in the presence of the perpetrator, MP, and his family.

32. On February 18, 2015, Defendant conducted a joint disciplinary hearing against MP and Ms. Doe.

33. During the hearing, the details of MP's sexual violence against Ms. Doe were, again, recounted, the same details Ms. Doe shared over and over again and, abusively, was forced to reenact, with school officials.

34. Ms. Augmon, who had a lead role in the investigation of Ms. Doe's report, admitted on the record, "I don't know that I'm trained to qualify what is sexual assault" because she had never investigated a sexual assault before.

35. MP then testified and admitted that he had unzipped and pulled down his pants without asking Ms. Doe if she wanted to engage in oral sex. Instead of

seeking her consent, MP claimed he knew Ms. Doe “wanted” it because of an alleged “look” on her face. When asked to describe that look, MP disturbingly described the “look” as a “blank face that didn’t really have an expression.” He also admitted to previous cyber sexual misconduct against Ms. Doe and that he had violated Defendant’s Rule 9G.

36. Defendant authorized and permitted MP’s attorney to ruthlessly cross-examine Ms. Doe and attack her credibility, after which he stated in his closing argument, on the record, “I make no apologies for my conduct in cross-examining [Ms. Doe].” The abusive examination was so extensive that the hearing officer eventually had to ask MP’s attorney to “tone it down” in his closing statement.

37. Perhaps even more egregious was the conduct of Defendant’s attorney and agent, Mr. Lancaster, who conducted a cruel cross-examination of Ms. Doe. Attorney Lancaster asked Ms. Doe, “**Can you demonstrate for us how you had screamed when [MP] was attacking you?**” After Ms. Doe testified that she yelled at MP “No, stop,” Attorney Lancaster asked Ms. Doe if she tried to yell any louder and how many times she yelled.

38. Attorney Lancaster interrogated Ms. Doe about her physical resistance to MP, asking:

“Did you try to push him with both arms, [or] just one arm?”

“Now, when he went to put his penis in your mouth, what did you do to prevent him from doing that? In other words, did you try to keep your mouth closed or avoid that or did you do anything to stop him?”

39. Upon information and belief, Attorney Lancaster’s interrogation about the specifics of Ms. Doe’s resistance was to establish her non-compliance with Rule 9G, which states in relevant part: “A student shall not allow another student/person to commit a lewd or indecent act to the body of oneself.”

40. During his closing argument, Attorney Lancaster stated: “I would ask that you find that [MP] was more credible that the sexual encounter was consensual, and that you find [Ms. Doe] in violation of Rule 9G.” He also stated:

“Based on the fact that [Ms. Doe] chose not scream louder and louder as this was going on, leads me to believe [MP]. Based on the fact that she had no physical injuries leads me to believe [MP]. Based on the fact that she didn’t report this immediately after it happened despite the fact that she walked straight to her mother’s car leads me to believe [MP].”

41. Defendant deliberated for a mere 10 minutes and determined Ms. Doe had violated the school’s sexual misconduct policy.

42. After the school announced this decision at the hearing, Ms. Doe was allowed to comment, and she stated on the record:

“I just feel betrayed by the school. . . What about other girls that go to Peachtree Ridge? This is a bad example. I don’t want any girls to have to go through this, ever.

When people find out about this and girls do get sexually assaulted, they're not going to want to come forward and tell someone, because they're going to be scared they're going to get suspended and they have to go through all of this. Do you know how hard it is? How much I have to repeat my story over and over and over, and that's just so hard. And then at the end, I get suspended for this. It just – like, it doesn't make any sense. And then I have to come in and you guys say y'all don't believe me. Then [MP]'s attorney is yelling at me. I didn't ask for this. I didn't ask to get sexually assaulted. I didn't ask to get suspended. It's just not fair. . . . You don't know how emotional it is at home. I have nightmares every night. I have nightmares of my own boyfriend date raping me. I feel like nobody can protect me, no one believes me.”

43. Following Ms. Doe's impassioned and wise-beyond-her-years statement, Defendant sanctioned Ms. Doe with another suspension from school.

44. Based on Defendant's sanction, the Georgia Department of Driver Services suspended Ms. Doe's driver's permit until February 2016.

Defendant Chose Not to Take Meaningful Measures to Stop Further Harassment or Remedy the Hostile Environment at School

45. When Defendant allowed Ms. Doe to return from her out-of-school suspension, it forced her to attend classes alongside MP. Ms. Doe was in continuous and constant fear of encountering MP at school.

46. When Ms. Doe attempted to return to PRHS, students called her “whore,” “slut,” “liar,” and “psycho.” One male student indicated his desire to forcibly sodomize or sexually batter Ms. Doe by stating to her, “I wish I was

[MP].” Another student told Ms. Doe she had to be a liar because the school allowed MP to return to school.

47. On her first day back from suspension, Ms. Doe only made it through her first period class before she went to the school counselor and reported that she felt suicidal.

48. On multiple occasions, Ms. Doe reported that fellow students continued to engage in sexual harassment, derision, and humiliation of her, but school officials took no meaningful actions to curb the hostility and harassment or ensure that Ms. Doe could attend school safely.

49. Because of the intolerable environment at PRHS, and Defendant’s refusal to take meaningful action to respond to the hostility Ms. Doe encountered at school, which all resulted from her report that MP sexually assaulted her, Ms. Doe’s family withdrew her from PRHS before the end of her sophomore year.

50. The only practical and affordable option the Doe family was aware of was enrolling Ms. Doe in GCPS’s Gwinnett Online Campus.

51. As an Online Campus student in Defendant’s school district, Ms. Doe was deprived of an in-school educational setting and two of the four courses she had been taking at PRHS, socially isolated, and denied the benefits of invaluable in-person interaction and activities with instructors and peers.

52. The Doe family eventually moved away from Gwinnett County to escape unbearable hostility and retaliation in the community.

53. As a result of Defendant's egregious, unlawful actions and inaction, Ms. Doe has suffered, and continues to suffer, depression, anxiety, post-traumatic stress disorder, and suffered significant weight loss that has jeopardized her health. Ms. Doe continues to suffer regular headaches and dizzy spells, difficulty sleeping due to recurring nightmares about the sexual assault and retaliation, grinding her teeth to require dental care, and social isolation. She also continues to distrust others, especially adults in positions of authority.

Defendant Failed to Provide Essential Title IX and Sexual Harassment Training to Administrators, Staff, Students, and Students' Parents

54. In 1998, the U.S. Supreme Court stated, "[t]he number of reported cases involving sexual harassment of students in schools confirms that harassment unfortunately is an all too common aspect of the educational experience." *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 292 (1998).

55. In 1999, the U.S. Supreme Court determined that schools may be held liable in private Title IX actions for monetary damages when they are deliberately indifferent to student-against-student sexual misconduct and harassment. *See Davis v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629 (1999).

56. In January 2001, the U.S. Department of Education Office for Civil Rights (“OCR”) issued *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (“2001 OCR Guidance”), informing all U.S. schools receiving Federal financial assistance, including Defendant, that “[p]reventing and remedying sexual harassment in schools is essential to ensuring a safe environment in which students can learn.” OCR reminded schools that student-against-student sexual misconduct constitutes prohibited sexual harassment. OCR also stated:

“[S]chools need to ensure that employees are **trained** so that those with authority to address harassment know how to respond appropriately, and other responsible employees know that they are obligated to report harassment to appropriate school officials. **Training for employees should include practical information about how to identify harassment and, as applicable, the person to whom it should be reported.**”

57. The 2001 OCR Guidance stated, with respect to student-against-student sexual harassment:

“If a student sexually harasses another student and the harassing conduct is sufficiently serious to deny or limit the student’s ability to participate in or benefit from the program, and if the school knows . . . about the harassment, the school is responsible for taking immediate effective action to eliminate the hostile environment and prevent its recurrence. . . . [I]f, upon notice, the school fails to take prompt, effective action, the school’s own inaction has permitted the student to be subjected to a hostile environment that denies or limits the student’s ability to participate in or benefit from the school’s program on the basis of sex.”

58. In January 2006, OCR issued *Dear Colleague Letter – Sexual Harassment Issues*, to U.S. public schools, including Defendant, stating, “[u]nfortunately, a significant number of students are still subjected to sexual harassment, which can interfere with a student’s education as well as his or her emotional and physical well-being.” OCR reminded public schools of their obligation “to take immediate and effective steps to end sexual harassment when it occurs, prevent its recurrence, and remedy its effects.”

59. In September 2008, OCR issued *Sexual Harassment: It’s Not Academic*, reiterating that unwelcome student-against-student sexual touching is sexual harassment, and that sexual harassment includes rape, sexual assault, dating violence, and sexually motivated stalking.

60. On April 4, 2011, OCR sent *Dear Colleague Letter: Sexual Violence* (“2011 OCR Guidance”), to all U.S. public schools, including Defendant, that issued a “**call to action**” to the nation’s schools because of “deeply troubling” data regarding school-place sexual violence. OCR informed schools, “[d]uring the **2007-2008 school year, there were 800 reported incidents of rape and attempted rape and 3,800 reported incidents of other sexual batteries at public high schools.**” The Guidance stated, “[a] number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and

sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX.”

61. The 2011 OCR Guidance reminded schools they have an obligation to investigate reports of sexual harassment, must designate at least one employee to coordinate and comply with Title IX responsibilities, and recommended schools provide **training and education** to employees and students on sexual harassment and violence.³

62. On April 24, 2013, OCR sent *Dear Colleague Letter: Retaliation*, to all U.S. public schools, including Defendant, reminding them they may not retaliate against students or parents who complain to a school about a civil rights violation like sexual discrimination.

63. On April 24, 2015, OCR sent *Dear Colleague Letter: Title IX Coordinators*, and issued a *Title IX Resource Guide*, to all U.S. public schools, including Defendant. OCR reminded schools of their obligation to designate at least one employee as a Title IX Coordinator who is responsible for coordinating the school’s efforts to comply with and carry out the school’s Title IX responsibilities, pursuant to 34 C.F.R. §106.8(a). OCR stated, “In our enforcement

³ The U.S. Department of Education withdrew this Dear Colleague Letter on September 22, 2017. However, the statistics cited above have not changed, and the requirements set forth above have not been formally revised or otherwise superseded by the U.S. Department of Education.

work, OCR has found that some of the most egregious and harmful Title IX violations occur when a recipient fails to designate a Title IX coordinator or when a Title IX coordinator has not been sufficiently trained or given the appropriate level of authority to oversee the recipient's compliance with Title IX."

64. Upon information and belief, despite clear notice by the U.S. Supreme Court and OCR regarding Defendant's obligations to prevent and remediate the effects of sexual harassment, at all times relevant hereto Defendant failed to provide training or education to administrators, staff, students, and parents regarding Title IX, student-against-student sexual harassment, or retaliation against students who report sexual harassment.

65. Upon information and belief, at all times relevant hereto, Defendant failed to provide training or education to administrators, staff, students, and parents on protecting students from sexual harassment and violence, interviewing victims and potential witnesses of sexual harassment, investigating reports of sexual harassment, remediating sexual harassment and violence, proper reporting of suspected sexual harassment or violence to Defendant's employees, and prohibition on retaliating against students who report sexual harassment.

66. Defendant's lack of training is evidenced, *inter alia*, by: subjecting Ms. Doe to victim-blaming questions, interrogation and cross-examination,

including about her apparel, why she didn't scream louder, and why she didn't bite MP's penis, and ignoring standards applicable to such actions, particularly regarding how victims of sexual violence may react in the midst of trauma; treating Ms. Doe's next-day report as slow, and ignoring standards regarding how victims may delay for long periods of time or never report at all, and that Ms. Doe's report was essentially contemporaneous; causing trauma to Ms. Doe by forcing her to reenact the sexual violence in the room where it occurred, and compelling her to repeatedly describe the sexual assault, including to persons who, without advising her, sought and used the information to punish her; failing to preserve corroborative evidence of Ms. Doe's report that MP had sexually assaulted her; failing to inform Ms. Doe or her family about her Title IX rights and act appropriately regarding such rights; and failing to have or provide adequate, or any, information on students' Title IX rights.

67. Upon information and belief, at all times relevant hereto, Defendant had no Title IX coordinator or other employees at PRHS designated to handle complaints of sexual harassment who were adequately trained in receiving, coordinating or investigating reports of sexual harassment and discrimination against students.

68. At all times relevant hereto, Defendant officially adopted sexual harassment policies that were inequitable and inadequate with respect to investigating and properly responding to reports of student-against-student sexual harassment, and, in any event, based upon information and belief, Defendant failed to provide training or education on those policies to administrators, staff, students, and parents.

CLAIMS FOR RELIEF

COUNT I

Post-Report Deliberate Indifference in Violation of Title IX, 20 U.S.C. § 1681, *et seq.*

69. Plaintiff incorporates all preceding paragraphs into this Count by reference as though fully stated herein.

70. As of February 5, 2015, Defendant had actual knowledge of MP's sexual harassment, assault, battery, and violence against Ms. Doe.

71. Ms. Doe suffered student-against-student sexual assault and harassment, which is considered sex discrimination prohibited by Title IX.

72. Defendant had actual knowledge of the hostile educational environment Ms. Doe continued to suffer after reporting sexual assault, harassment, and discrimination.

73. Defendant's administrators, employees, and agents with actual knowledge of Ms. Doe's many reports had the authority and ability to investigate and take meaningful corrective action to remediate sexual harassment and the hostile educational environment Ms. Doe suffered, but failed to do so.

74. Defendant's failure to take meaningful disciplinary or corrective action against MP – while punishing Ms. Doe – and multiple failures to take any meaningful corrective action to remediate the sexual harassment and hostile education environment that Ms. Doe experienced after, and because of, reporting sexual assault, were clearly unreasonable in light of the known circumstances.

75. Through its actions and inaction, Defendant was deliberately indifferent to the sexual assault, violence, and continued harassment that Ms. Doe suffered at PRHS, and proximately caused severe injuries to Ms. Doe.

76. Through its actions and inaction, Defendant created a climate in which sexual harassment was tolerated, thus encouraging other students' sexual harassment, torment, and bullying against Ms. Doe, and proximately caused severe injuries to Ms. Doe.

77. As a result of Defendant's deliberate indifference, Ms. Doe was subjected to additional sexual harassment by PRHS students.

78. The sexual harassment, assault, and violence MP inflicted on Ms. Doe was severe, pervasive, and objectively offensive, and effectively barred Ms. Doe's access to educational opportunities and benefits.

79. The sexual harassment PRHS students inflicted on Ms. Doe was severe, pervasive, and objectively offensive, and effectively barred Ms. Doe's access to educational opportunities and benefits.

80. The sexual harassment, assault, and violence inflicted on Ms. Doe, along with Defendant's refusal to take any meaningful action in response to reports of sexual misconduct and harassment against Ms. Doe, effectively barred Ms. Doe's access to educational opportunities and benefits. Ms. Doe had to leave PRHS, transfer to an on-line school with far fewer educational opportunities and benefits, and eventually leave the school and her community altogether. As a result, Defendant deprived Ms. Doe of numerous educational opportunities and benefits.

81. By its actions and inaction, Defendant acted with deliberate indifference toward the rights of Ms. Doe to a safe and secure education environment, thus materially impairing her ability to pursue her education at PRHS in violation of the requirements of Title IX.

82. Specifically, Defendant violated Title IX by, *inter alia*:

- a. Choosing to take sides against Ms. Doe, while supporting MP through the disciplinary proceeding;
- b. Punishing Ms. Doe by suspending her two separate times because she reported sexual violence to school officials;
- c. Ignoring complaints and reports regarding PRHS students' sexual harassment and bullying against Ms. Doe, or being deliberately indifferent thereto;
- d. Failing to conduct an unbiased investigation into Ms. Doe's reports of MP's sexual misconduct, or being deliberately indifferent thereto;
- e. Requiring Jane Doe to protect herself from further sexual harassment and bullying following her report against MP;
- f. Protecting and advocating for MP, despite Ms. Doe's credible and consistent reports of his sexual violence against her;
- g. Creating a climate that tolerated sexual harassment against Ms. Doe, or being deliberately indifferent thereto;
- h. Failing to develop or adopt policies and procedures to properly address complaints of student-against-student sexual harassment, assault, violence, and post-report sexual harassment and bullying;
- i. Failing to develop or adopt policies and procedures regarding proper investigation of reports of student-against-student sexual harassment, assault, and violence;
- j. Failing to provide policy, procedures, or training for administrators, employees, students, and students' parents about sexual harassment and assault;
- k. Failing to discipline Defendant's employees and agents identified herein for their willful disregard to Ms. Doe's safety and rights, or being deliberately indifferent thereto;

- l. Failing to provide, offer, recommend, or coordinate adequate health, psychological, counseling, and academic assistance and services to Ms. Doe after she was sexually harassed, assaulted, and violated by MP, and sexually harassed and bullied by PRHS students, or being deliberately indifferent thereto; and
- m. Through other actions, inaction, and deliberate indifference.

83. As a direct and proximate result of Defendant's action, inaction, and deliberate indifference, Ms. Doe sustained and continues to sustain injuries for which she is entitled to be compensated, including but not limited to:

- a. Past, present, and future physical and psychological pain, suffering and impairment;
- b. Medical bills, counseling, and other costs and expenses for past and future medical and psychological care;
- c. A marred educational and disciplinary record, and impaired educational capacity and future earning capacity;
- d. Attorneys' fees and costs; and
- e. Such other and further relief as this Court deems just and proper.

COUNT II
Retaliation in Violation of Title IX, 20 U.S.C. § 1681, et seq.

84. Plaintiff incorporates all preceding paragraphs into this Count by reference as though fully stated herein.

85. Reporting sexual assault and harassment to school officials is a statutorily protected activity under Title IX. Reporting incidents of sex discrimination is integral to Title IX enforcement.

86. Because Ms. Doe reported MP's sexual harassment and assault to Defendant, Defendant's administrators, employees, and agents retaliated against her by, among other things, twice suspending her from school, openly gossiping about her to other teachers, including in front of Ms. Doe, giving her failing grades and marring her educational record, and refusing to provide her with meaningful accommodations.

87. Defendant, through its agents, acted materially adversely to Ms. Doe in that it negatively impacted her educational record, deprived her of educational opportunities and benefits, and subjected her to a hostile education environment.

88. As a direct and proximate result of Defendant's retaliation, Ms. Doe sustained and continues to sustain injuries for which she is entitled to be compensated, including but not limited to:

- a. Past, present, and future physical and psychological pain, suffering and impairment;
- b. Medical bills, counseling, and other costs and expenses for past and future medical and psychological care;
- c. A marred educational and disciplinary record, and impaired educational capacity and future earning capacity;
- d. Attorneys' fees and costs; and
- e. Such other and further relief as this Court deems just and proper.

COUNT III

Failure to Train, in Violation of Plaintiff's Constitutional and Federal Rights, pursuant to 42 U.S.C. § 1983

89. Plaintiff incorporates all preceding paragraphs into this Count by reference as though fully stated herein.

90. Sexual harassment is a form of unlawful sex discrimination that can violate the Equal Protection Clause of the 14th Amendment to the U.S. Constitution. Plaintiff's Equal Protection rights were violated when she suffered sexual harassment and discrimination at PRHS.

91. Plaintiff had federal civil rights secured by federal statute, Title IX of the Education Amendments of 1972, which provides in pertinent part:

[N]o person . . . shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

92. Title IX was intended to benefit students like Ms. Doe.

93. Title IX provides students like Ms. Doe clear civil rights, which are not amorphous or vague, to be free from known sex discrimination at school.

94. Title IX imposes a binding mandatory obligation on federal funding recipients like Defendant, prohibiting it from discriminating against students on the basis of sex.

95. The U.S. Supreme Court, in *Fitzgerald v. Barnstable Sch. Comm.*, 555 U.S. 246, 255-58 (2009), stated, “we conclude that Title IX was not meant to be an exclusive mechanism for addressing gender discrimination in schools,” and held a plaintiff may bring causes of action under *both* Title IX *and* § 1983 for unlawful sex discrimination. Accordingly, a remedy for sex discrimination in schools is not foreclosed under §1983.

96. At all times relevant hereto, Defendant was a policy maker and administrator having duties to train, and failed to properly or sufficiently train its administrators, staff, students, and parents about: sex discrimination and sexual harassment against students; Title IX and/or student-against-student sexual misconduct; identifying, investigating, reporting, and remedying the effects of sexual harassment by students like MP against students like Ms. Doe; or, properly

responding to and remediating continued harassment and hostility by students like those who continued to harass Ms. Doe after she reported sexual assault.

97. At all times relevant hereto, Defendant was policy maker and administrator having duties to train, and failed to properly or sufficiently train, administrators, staff, students, and parents about: school policies concerning sex discrimination and sexual harassment against students; Title IX and/or student-against-student sexual misconduct; identifying, investigating, reporting, and stopping sexual harassment by students like MP against students like Ms. Doe; or, properly responding to and remediating continuing harassment and hostility by students like those who continued to harass Ms. Doe after she reported sexual assault.

98. Defendant failed to train its administrators, staff, students and parents despite the plainly obvious need for training on, among other things, student-against-student sexual misconduct and identifying, investigating, reporting, stopping, and remediating the effects of sexual harassment.

99. Defendant failed to train its administrators, staff, students and parents despite the plainly obvious need for training on, among other things, the prohibition, illegality, and impropriety of retaliating against students like Ms. Doe

who report violations of Title IX and student-against-student sexual misconduct, which is vital to enforcement of Title IX.

100. Numerous authorities, including the U.S. Supreme Court and U.S. Department of Education, made clear and gave notice to Defendant that school employees will confront student sexual harassment and abuse with regularity, given the high predictability, recurrence and prevalence of student-against-student sexual assault and abuse in schools. Thus, it was foreseen and inevitable that Defendant's administrators and employees would encounter recurrent situations involving sexual abuse that implicated students' Constitutional and federal rights, and it did, in fact, encounter those recurring situations.

101. Defendant failed to adequately train its administrators, staff, students, and parents, and thereby prohibit or discourage foreseen conduct and retaliation, despite the clearly established and well-known known dangers of sexual harassment, assault, battery, and violence faced by students in U.S. public schools, and thereby was deliberately indifferent.

102. Defendant's failure to train its administrators, staff, students, and parents effectively denied Ms. Doe's clearly established federal rights and Constitutional rights.

103. Defendant's failure to train administrators, staff, students, and parents was deliberate, reckless, and in callous indifference to Ms. Doe's federally protected rights.

104. As a direct and proximate result of Defendant's actions, inactions, and deliberate indifference to and violation of Ms. Doe's clearly established Constitutional and federal rights, Ms. Doe suffered, and continues to suffer, injuries including, without limitation, emotional distress, psychological trauma, and mortification.

105. As a direct and proximate result of Defendant's actions, inaction, deliberate indifference to, and violation of Ms. Doe's clearly established Constitutional and federal rights, Ms. Doe suffered and continues to suffer injuries for which she is entitled to be compensated, including but not limited to:

- a. Past, present, and future physical and psychological pain, suffering and impairment;
- b. Medical bills, counseling, and other costs and expenses for past and future medical and psychological care;
- c. A marred educational and disciplinary record, and impaired educational capacity and future earning capacity;
- d. Attorneys' fees and costs; and
- e. Such other and further relief as this Court deems just and proper.

PRAYER FOR RELIEF

Plaintiff prays the Court for judgment in favor of Plaintiff and against Defendant, awarding Plaintiff her compensatory damages in an amount to be established at trial, equitable relief amending Plaintiff's educational and disciplinary record, reasonable attorneys' fees and costs, legal interest and such other relief as the Court may deem just and proper under the circumstance.

JURY DEMAND

Plaintiff respectfully demands a trial by a jury.

Dated: November 16, 2018

Respectfully submitted,

s/ Anita K. Bala

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