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12 **UNITED STATES DISTRICT COURT**
13
14 **DISTRICT OF NEVADA**

15 JANE DOE as Guardian of J. DOE, a
minor, and in her individual capacity,

16 Plaintiffs,

17 vs.

18 WASHOE COUNTY SCHOOL
DISTRICT, a political subdivision of
19 the State of Nevada, its BOARD OF
20 TRUSTEES, and its
21 SUPERINTENDENT, DR. SUSAN
ENFELD, DOES I-XX and ROE
22 entities I-XX.

23 Defendants.

Case No.:

Dept. No.:

COMPLAINT

JURY DEMAND

24 COME NOW, Plaintiffs, by and through their attorneys of record, SIGAL CHATTAH,
25 ESQ., of CHATTAH LAW GROUP and JOSEPH S. GILBERT, ESQ., of JOEY GILBERT
26 LAW, and hereby alleges and complaint against Defendants as follows:
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JURISDICTION AND VENUE

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1. This court has Federal subject matter jurisdiction under 42 U.S.C. § 1983, 20 U.S.C § 1681 et. seq., 29 U.S.C. § 701 et seq., and 28 U.S.C § 1331, 1343.

2. Venue is proper under 28 U.S.C. § 1391 in the District of Nevada, Washoe County, because this claim arose therein.

3. Every act and omissions alleged herein was done by Defendants and carried out under the color and pretense of state and federal laws, statutes, ordinances, regulations, or customs.

4. This Court has supplemental jurisdiction over Plaintiffs’ State law claims pursuant to 28 U.S.C. § 1367(a) because they are part of the same case and controversy described by Plaintiffs’ Federal claims.

5. All of the acts or failures to act herein were duly performed by and attributable to all Defendants, each acting as agent, employee, or under the direction and/or control of the others. Said acts or failures to act were within the scope of said agency and/or employment and each of the Defendants and ratified the acts and omissions by the other Defendants. Whenever and wherever reference is made in this Complaint to any acts by Defendants, such allegations and references shall also be deemed to mean the acts of each of the Defendants acting individually, jointly or severally.

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1 **13.** Defendants violated Minor Plaintiff's right when they, under color of state law,
2 carried out customs and/or policies and/or practices and usage of deliberate indifference, non-
3 reporting, and tolerance for discrimination, carried out on the basis of sex and disability, failed to
4 protect Minor Plaintiff and prohibit the discriminatory conduct, and failed to adequately
5 implement a Section 504 Plan specifically for Minor Plaintiff.
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7 **14.** The Fourteenth Amendment to the United States Constitution also affords Minor
8 Plaintiff the right to procedural due process.
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10 **15.** Defendants deprived Minor Plaintiff of that right when they, under color of state
11 law, failed to report the discriminatory acts and expressions, denied Minor Plaintiff the
12 subsequent procedural safeguards, and failed to protect Minor Plaintiff.
13

14 **16.** Title IX of the Education Act, as codified in 20 U.S.C § 1681 et. seq., mandates
15 that Defendants prohibit discriminatory acts and expressions carried out on the basis of sex,
16 gender identity, and sexual orientation, and to protect Minor Plaintiff and other similarly situated
17 students from such prohibited conduct.
18

19 **17.** Defendants were negligent and acted with deliberate indifference, when they,
20 under color of state law, condoned, ratified, and carried out the prohibited conduct, and denied
21 Minor Plaintiff of his rights, benefits, and participation in their programs and activities.
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23 **18.** Section 504 of the Rehabilitation Act, as codified in 29 U.S.C. § 701 et seq.,
24 mandates that Defendants prohibit discriminatory acts and expressions carried out on the basis of
25 disability, and to protect Minor Plaintiff and other similarly situated students from such
26 prohibited conduct.
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1 **19.** Defendants were negligent and acted with deliberate indifference, when they,
2 under color of state law, condoned, ratified, and carried out the prohibited conduct, and denied
3 Minor Plaintiff of his rights, benefits, and participation in their programs and activities.
4

5 **20.** Section 504 of the Rehabilitation Act mandates that Defendants provide Minor
6 Plaintiff with a learning environment that is free from discrimination on the basis of disability, to
7 receive a free and public education with equal access to a meaningful enjoyment of each of the
8 benefits, privileges, and opportunities afforded.
9

10 **21.** Defendants were negligent and acted under color of state law when they tolerated
11 discrimination, excluded Minor Plaintiff from participation, and denied him of his benefits while
12 he was under the control, care, supervision, and protection of Defendants, in programs receiving
13 Federal funding.
14

15 **22.** Chapter 388 of the Nevada Revised Statutes mandates Defendants a duty to
16 prohibit discriminatory acts and expressions carried out on the basis of disability and sex, to
17 protect Minor Plaintiff and other similarly situated students from such prohibited conduct.
18

19 **23.** Defendants were negligent and acted with deliberate indifference, when they,
20 under color of state law, condoned, ratified, and carried out the prohibited conduct, and failed to
21 protect Minor Plaintiff, where Minor Plaintiff was harmed.
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1 **24.** Title 34 of the Nevada Revised Statutes mandates Defendants the following
2 duties: (i) create a board of trustees, with rights and powers necessary to control public
3 education, (ii) hire, train, oversee, supervise, discipline, and license Defendants' schools,
4 teachers, staff, and administration; (iii) create and provide a safe and respectful learning
5 environment for each pupil; (iv) prohibit and prevent bullying, harassment, and discrimination;
6 (v) identify, report, investigate, halt, and discipline acts and expressions that violate Minor
7 Plaintiff's rights; (vi) establish and maintain school safety teams and safe school environments;
8 (vii) provide counseling and other services; (viii) report all data to state and federal agencies for
9 review and oversight; and (ix) adhere to the Nevada Model code of Educator Ethics. *See*
10 *generally*, NRS 385.005, 386.010, 388.132, 391, 391A, 388.132, 391.2055, 391.2056.
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13 **25.** Defendants were negligent and acted with deliberate indifference, when they,
14 under color of state law, breached and failed in the performance of their duties.
15

16 **26.** Defendants' negligent actions, and their deliberate indifference to Minor Plaintiff,
17 shocks the conscience and demonstrates a discriminatory and dangerous environment found
18 within the Washoe County School District.
19

FACTUAL ALLEGATIONS

20
21 **27.** At all pertinent times, Minor Plaintiff was 9-10 years of age attending Jerry
22 Whitehead Elementary School.
23

24 **28.** Minor Plaintiff was a designated and identified student with a disability,
25 suffering from anxiety, tachycardia, and cyclical vomiting, with the right to engage in protected
26 activities, with an established Section 504 Plan pursuant to 29 U.S.C. § 701 et seq.
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1 **30.** As early as March, 2019, Defendants knew that Minor Plaintiff was vulnerable
2 and its employees were placed on notice that he was unable to speak up for himself in situations
3 where his mental and physical impairments became debilitating, agreeing to have a system
4 whereby he could use signals, and eventually physical cards, that could be used to notify the
5 Defendants’ employees that he was having anxiety, chest pains, or a racing heart, and that they
6 would work with and accommodate him.
7

8 **31.** On August 29, 2022, the Second Judicial District Court issued a Temporary
9 Protection Order Against Stalking or Harassment (“Order”), whereby a minor student aggressor,
10 was prohibited from being within 100 yards of Minor Plaintiff at both his school and his
11 residence, and where he was prohibited from contacting Minor Plaintiff in any manner
12 whatsoever.
13

14 **32.** Defendants were notified of the terms of the Order and subsequently refused to
15 enforce such terms, nor follow mandated protocols regarding adequate and reasonable mitigation
16 of the situation.
17

18 **33.** Rather than make such accommodations, Minor Plaintiff was subject to ridicule
19 and abuse, and ignored and retaliated against by both his classmates and said “trusted adults.”
20

21 **34.** In fact, despite being provided ample information, Defendants not only ignored
22 the Order, but allowed the bullying, harassment, discrimination, and abuse to persist over the
23 next four months, while in full custody and control of each minor child.
24

25 **35.** Further, these affirmative acts were combined with a categorical failure to report
26 any of the incidents for investigation, to the Nevada Accountability Portal, or the Civil Rights
27 Data Collection Website.
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1 **36.** As a result of these collective acts, Minor manifested the following somatic and
2 psychosomatic symptoms:

- 3
- 4 • Difficulty eating, loss of appetite;
 - 5 • Increased anxiety;
 - 6 • Episodes of tachycardia at school;
 - 7 • Recurring headaches;
 - 8 • Post-traumatic stress disorder;
 - 9 • Concussion leading to anterograde amnesia/mild traumatic brain injury;
 - 10 • Diminished concentration and academic performance; and
 - 11 • Chronic school absence due to trauma from attending school

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15 **37.** At all pertinent times, the abusers/aggressors were minor students under the care,
16 supervision, custody, and protection of Defendants, at the same school and in the same and other
17 classrooms as Minor Plaintiff.

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19 **38.** At all pertinent times, the discriminators/retaliators were adult staff, teachers, and
20 administrators, under the control, supervision, direction, and authority of Defendants, at the same
21 school and in the same and other classrooms as Minor Plaintiff.

22

23 **39.** At all pertinent times, Defendants were and are a political subdivision of the State
24 of Nevada, existing and operating by virtue of the laws of the County of Washoe, State of
25 Nevada, having and exercising full control, power, and operating oversight of the educational
26 programs and activities at its schools, within its district, while a recipient of Federal funding.

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1 **40.** At all pertinent times, Defendants acted by and through its teachers, staff, and
2 administrators, who carried out final decisions and policies regarding the care, supervision,
3 custody, and protection of all minor students, and specifically, Minor Plaintiff.
4

5 **41.** From on or about November 2021 through the present day, Minor Plaintiff was
6 subjected to and suffered from, repetitive and unrelenting acts and expressions of discrimination
7 on the basis of his sex and his disability, where he was bullied, harassed, assaulted, and abused
8 by the abusers/aggressors, and where discriminators/retaliators showed deliberate indifference to
9 his plight, and rather condoned, ratified, and carried out the prohibited conduct, and did retaliate,
10 segregate, and isolate Minor Plaintiff.
11

12 **42.** Whereas Defendants' acts and omissions of deliberate indifference violated Minor
13 Plaintiff's right to equal protection under the laws, deprived him of his right to due process, and
14 denied him the right to a free and public education with equal access to and meaningful
15 enjoyment of the privileges, benefits, and opportunities afforded its educational programs and
16 activities.
17

18 **43.** Whereas Nevada Revised Statutes mandate Defendants with a duty to act as
19 stewards and guardians of the laws, values, and procedures for each district, where each shall
20 show civility and respect to their students, as an act and expression of appropriate and
21 professional behavior, where they show no tolerance for discrimination of any kind.
22

23 **44.** Defendants were negligent and acted under color of state law when they showed
24 deliberate indifference to the plight of Minor Plaintiff.
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1 **45.** Whereas NRS mandates Defendants a duty to provide each child with quality
2 instruction not negatively impacted by poor attitudes or interactions among teachers, staff, and
3 administration, and to report discriminatory acts and expressions on the same day that they are
4 witnessed, overheard, or notified of.

5
6 **46.** Defendants were negligent and acted under color of state law when they showed
7 deliberate indifference to the Minor Plaintiff.

8
9 **47.** Defendants knew the risk of harm to Minor Plaintiff and had notice of actual
10 harm, and Defendants deprived Minor Plaintiff of his right to equal protection when they
11 condoned, ratified, and carried out acts and expressions so objectively offensive as to
12 substantially interfere with his academic pursuits, social performance, and his mental health and
13 physical well-being.

14
15 **48.** Defendants knew of their duty to prohibit discriminatory conduct, to protect
16 Minor Plaintiff, and to report discriminatory acts and expressions, by and through each of its
17 published documents:

18 Board Policy, 9200: Harassment and Discrimination Prohibited.

19
20 Board Policy, 5700: Safe and Respectful Learning Environment.

21 Admin. Regulation, 5701: Student Bullying, Discrimination, and/or Harassment.

22 Student Behavior: Administrative Procedures Manual.

23
24 **49.** Plaintiffs relied on the published documents and made reasonable inferences from
25 the same that Defendants would exercise due and reasonable care in the performance of their
26 duties.

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1 **50.** Defendants were negligent and acted under color of state law when they failed to
2 mitigate harm, and where Defendants’ behavior shocks the conscience.

3
4 **51.** Defendants carried out customs and/or policies and/or practices and usage of non-
5 reporting and tolerance for discrimination expressed through persons with final authority and
6 decision-making capacity through practices so pervasive and widespread as to constitute a
7 custom or a policy with the force of law, and Defendants practices resulted in each violation.

8
9 **52.** Minor Plaintiff was subjected to sexual and physical assault that resulted in a
10 concussion, cumulative trauma, neurological damage, aggravation of his disability, and
11 emotional distress.

12 **53.** At all pertinent times, Defendants had knowledge of the risk of harm to Minor
13 Plaintiff and the hostile and offensive environment or “state-created danger.”

14
15 **54.** Defendants were negligent and acted under color of state law when they failed to
16 mitigate the harm and violated Minor Plaintiff’s right to equal protection.

17
18 **55.** At all pertinent times, Defendants had actual knowledge of each of the factual
19 allegations made in this Complaint and notice of actual harm.

20 **56.** Defendants were negligent and acted under color of state law when they failed to
21 report the acts and expressions and deprived Minor Plaintiff of his right to due process.

22
23 **57.** At all pertinent times, Defendants had knowledge of Minor Plaintiff’s disability
24 and the effects of his mental and physical impairments on his major life functions.

25 **58.** Defendants were negligent and acted under color of state law when they failed to
26 implement his section 504 plan while he was in their care, custody, supervision, and protection,
27 and deprived Minor Plaintiff of his constitutional, federal, and state-protected rights.
28

1 **59.** At all pertinent times, Defendants acted under the color of state law, and where
2 Defendants carried out acts and omissions in the course of their employment, while on school
3 property or adjacent to surrounding parks and playgrounds.

4
5 **60.** At all pertinent times, Defendants acted under the color of state law, and where
6 Defendants showed deliberate indifference to the plight of Minor Plaintiff, directly and
7 proximately cause him harm, and where the injuries suffered by Minor Plaintiff include
8 cumulative trauma, humiliation, and the damage and manipulation of relationships.

9
10 **61.** That Minor Plaintiff has been subjected to cumulative trauma as a direct and
11 proximate result of Defendants failure to comply with both Federal and State mandates including
12 but not limited to the following:

- 13 • Excessive and demeaning acts and expressions of bullying;
14
15 • Assault and battery by his classmates; 1 1 On or around February 23, 2022, Minor was
16 assaulted twice by a minor student aggressor, where the minor student first trapped Minor
17 in the bathroom, put his hands around his throat and choked him, chased him with a
18 pencil and threatened to stab him, and then later, found Minor at the park adjacent to the
19 school and again assaulted him, grabbing Minor by the throat and again trying to choke
20 him.
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- Sexual assault, sexual violation;
- Discrimination, to include sexual harassment, daily taunting by students, mocking his clothing, accessories, behavior, and belittling him based upon his perceived sexual orientation and gender identity;
- Additional physical and sexual assault and battery by the minor student abuser;
- Discrimination on the basis of his sex and disability by the School’s employees; and
- Retaliation due to parental notification of this abhorrent and disgusting behavior.

62. As a result of these collective acts, Minor manifested the following somatic and psychosomatic symptoms:

- Difficulty eating, loss of appetite;
- Increased anxiety;
- Episodes of tachycardia at school;
- Recurring headaches;
- Post-traumatic stress disorder;
- Concussion leading to anterograde amnesia/mild traumatic brain injury;
- Diminished concentration and academic performance; and
- Chronic school absence due to trauma from attending school

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1 **67.** Pursuant to 42 U.S.C. § 1983, Plaintiffs are entitled to a Declaration from the
2 Court that Defendants have violated Minor Plaintiff's constitutional right to equal protection and
3 deprived him of his constitutional right to procedural due process; that Defendants are negligent
4 and acted under color of state law when they failed to protect Minor Plaintiff and prohibit
5 discriminatory conduct, failed to provide a safe and respected learning environment that is free
6 from discrimination and retaliation; and that Defendants demonstrated deliberate indifference to
7 the plight of Minor Plaintiff through customs and/or policies and/or practices and usage so
8 pervasive and widespread as to constitute the force of law.

9
10 **68.** Here, Defendants violated Minor Plaintiffs' right to equal protection under the
11 laws and deprived him of the privileges, benefits, and opportunities afforded under its
12 educational programs and activities, violations of which are actionable under 42 U.S.C. § 1983.

13
14 **69.** Defendants were negligent in failing to prohibit the discriminatory conduct, a
15 violation which is actionable under 42 U.S.C. § 1983.

16
17 **70.** Here, Defendants deprived Minor Plaintiff of his right to procedural due process
18 and of subsequent procedural safeguards, violations which are actionable under 42 U.S.C. §
19 1983.

20
21 **71.** Defendants were negligent in failing to perform its mandatory duty to report the
22 discriminatory conduct, a violation actionable under 42 U.S.C. § 1983.

23 **72.** Defendants' act and omissions were the direct and proximate cause of harm to
24 Minor Plaintiff in violation of his rights actionable under 42 U.S.C. § 1983.

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1 **78.** The Federal and State Government mandate a duty to Defendants to identify and
2 meet the needs of Minor Plaintiff and other similarly situated students by implementing a plan
3 pursuant to Section 504 of the Rehabilitation Act to provide Minor Plaintiff with equal access to
4 and meaningful enjoyment of each of the privileges, benefits and opportunities afforded to each
5 student in its educational programs and activities.
6

7 **79.** Defendants denied Minor Plaintiff of such privileges and retaliated, used aversive
8 intervention, segregated, and isolated Minor Plaintiff.
9

10 **80.** Defendants did not exercise due and reasonable care in the performance of their
11 duties when they undermined and detracted from the educational experience of Minor Plaintiff
12 and created a disadvantaged school environment.
13

14 **81.** Defendants violated Minor Plaintiff's constitutional right to equal protection, and
15 the educational benefits afforded to him under the law.
16

17 **82.** Defendants demonstrated their deliberate indifference to the Minor Plaintiff, and
18 other similarly situated students, through customs and/or policies and/or practices and usage of
19 deliberate indifference, when it tolerated discriminatory conduct, when it condoned, ratified, and
20 carried out acts and expressions so objectionably offensive, and did create an environment where
21 Minor Plaintiff was in danger, and in fact was harmed, and the school did not investigate nor
22 report the acts and occurrences, and deprived him of privileges and benefits afforded to him, a
23 violation which is actionable under 42 U.S.C. § 1983.
24

25 **83.** Defendants' acts and omissions proximately and directly caused harm to Minor
26 Plaintiff in the violation of his constitutional, federal, and states' rights.
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1 **91.** The Fourteenth Amendment affords Minor Plaintiff the right to procedural due
2 process.

3
4 **92.** Defendants deprived Minor Plaintiff of that right when they failed to report the
5 discriminatory conduct and denied Minor Plaintiff the subsequent procedural safeguards.

6 **93.** Federal and State law mandate that Defendants respond promptly to allegations
7 and incidents of bullying, harassment, and discrimination, undertake individualized safety and
8 risk analyses to determine the level of a threat or need to justify removal, and to treat each
9 victim, allegation, and complaint with support and direction, and provide assistance with filing
10 formal federal complaints.

11
12 **94.** Defendants were negligent in failing to perform and deprived Minor Plaintiff of
13 his right to due process.

14
15 **95.** Defendants' offending customs and/or policies and/or practices and usage arise
16 from an express policy made through the decisions of Defendants' personnel with final policy-
17 making authority.

18
19 **96.** Defendants' decisions or omissions, manifest tolerance for discrimination and
20 deliberate indifference to the rights of students like and including Minor Plaintiff, are so
21 pervasive and widespread where Defendants' behavior shocks the conscience.

22 **97.** Defendants were negligent and acted with deliberate indifference, when they,
23 under color of state law, deprived Minor Plaintiff of his right to procedural due process, and
24 denied him the constitutional, federal, and state procedural safeguards he is afforded, a violation
25 which is actionable under 42 U.S.C. § 1983.
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1 **105.** Whereas Title IX of the Education Act mandates that Defendants prohibit
2 discriminatory conduct, and specifically, discriminatory acts and expressions carried out on the
3 basis of Minor Plaintiff's sex, gender identity, or sexual orientation.

4
5 **106.** Defendants were negligent and acted with deliberate indifference, when they,
6 under color of state law, failed to prohibit the discriminatory conduct, and did condone, ratify,
7 and carry out such acts and expressions, a violation of which is actionable under 20 U.S.C. §
8 1681 *Et. Seq.*

9
10 **107.** Defendants violated Minor Plaintiff's rights under Title IX of the Education Act.

11 **108.** Defendants acted under color of state law when they condoned and ratified
12 discriminatory acts and expressions, undermined and detracted from his educational experience,
13 and where Defendants created a disadvantaged and dangerous school environment, a violation of
14 which is actionable under 20 U.S.C. § 1681 *Et. Seq.*

15
16 **109.** Defendants failed to mitigate harm and lessen the state-created danger, having
17 actual knowledge and notice of the incidents and occurrences of discriminatory conduct, a
18 violation of which is actionable under 20 U.S.C. § 1681 *Et. Seq.*

19
20 **110.** Defendants had final authority and decision-making capacity to identify, address,
21 halt, report, and further investigate all discriminatory acts and expressions, incidents,
22 occurrences, and allegations, and to initiate corrective and preventative measures on behalf of
23 Minor Plaintiff.

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1 **117.** Defendants were negligent and acted with deliberate indifference, when they,
2 under color of state law, failed to prohibit discriminatory, and did condone, ratify, and carry out
3 the prohibited conduct, and tolerated an offensive and hostile environment that led to retaliation,
4 segregation, and isolation of Minor Plaintiff, and where Defendants failed to implement and
5 maintain his Section 504 Plan., violations which are actionable under 29 USC §701 *Et. Seq.*
6

7 **118.** Defendants acted with deliberate indifference to the Minor Plaintiff when they
8 failed to report the incidents and allegations, failed to mitigate the harm, failed to carry out
9 subsequent procedural safeguards, which include filing federal complaints, violations of which
10 are actionable under 29 USC §701 *Et. Seq.*
11

12 **119.** Defendants created a disadvantaged and dangerous school environment when they
13 condoned, ratified and carried out acts and expressions of discrimination and retaliation against
14 Minor Plaintiff, and where Defendants had knowledge of the risk and hostile environment, and
15 used aversive intervention, and segregated and isolated Minor Plaintiff from other minor
16 students, violations which are actionable under 29 USC §701 *Et. Seq.*
17

18 **120.** Defendants acted under color of state law when they failed to mitigate the harm,
19 violations of which are actionable under 29 USC §701 *Et. Seq.*
20

21 **121.** Defendants denied Minor Plaintiff equal access and meaningful enjoyment of the
22 privileges, benefits, and opportunities afforded him by their educational programs and
23 opportunities, violations of which are actionable under 29 USC §701 *Et. Seq.*
24

25 **122.** Defendants failed to meet the requirements of Minor Plaintiff's Section 504 Plan,
26 and to administer, enforce, and implement its provisions, violations of which are actionable
27 under 29 USC §701 *Et. Seq.*
28

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1 **123.** Defendants had final authority and decision-making capacity to identify, address,
2 halt, report, and further investigate all discriminatory acts and expressions, incidents,
3 occurrences, and allegations, and to initiate corrective and preventative measures on behalf of
4 Minor Plaintiff.

5
6 **124.** Defendants failed to mitigate harm and lessen the state-created danger, violations
7 of which is actionable under 29 USC §701 *Et. Seq.*

8
9 **125.** Defendants' negligence and deliberate indifference caused actual and proximate
10 harm, and Minor Plaintiff suffered injuries and cumulative trauma now and into the future that
11 will require medical and educational analyses, evaluations, and treatments, the cost of which
12 entitles Minor Plaintiff to special damages in an amount to be proven at time of trial.

13
14 **126.** Defendants' negligence and deliberate indifference caused harm, and Minor
15 Plaintiff suffered injuries and emotional and psychological harm, humiliation, degradation,
16 damaged relationships, and general emotional distress, where Plaintiffs claim both past and
17 future damages, in an amount in excess of \$75,000.

18
19 **127.** Defendants' negligence and deliberate indifference caused harm, and Minor
20 Plaintiff suffered injuries, and Plaintiff Jane Doe, in her individual capacity, has and will into the
21 future incur medical, educational, and other expenses for which she is entitled to recover in this
22 action.

23
24 **128.** Pursuant to 42 U.S.C. § 1988, Plaintiffs are entitled to recover against Defendants
25 for all reasonable attorneys' fees expended in prosecuting this action.

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SIXTH CAUSE OF ACTION

(NEGLIGENCE AGAINST ALL DEFENDANTS)

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2
3 **129.** Plaintiffs repeat and re-allege all prior paragraphs of this Complaint and
4 incorporate them by reference as though fully set forth herein.
5

6 **130.** Title 34 of the Nevada Revised Statutes mandates one or more duties to
7 Defendants to (i) create a board of trustees with the rights and powers necessary to control local
8 public education, (ii) hire, train, oversee, supervise, discipline, and license the schools, their
9 teachers, staff, and administration; (iii) provide a safe and respectful learning environment for all
10 students; (iv) prohibit bullying, harassment, and discrimination of every kind; (v) identify and
11 report acts of prohibited conduct; (vi) carry out subsequent procedural safeguards; (vii) establish
12 and maintain school safety teams and safe school environments; (viii) provide counseling and
13 other services and resources; (ix) report all data to state and federal government agencies for
14 review and oversight; and (x) adhere to the Nevada Model Code of Educator Ethics.
15

16 **131.** Defendants were negligent and acted under color of state law when they failed to
17 perform their duties and failed to exercise due and reasonable care, violations which are
18 actionable under NRS 385 *Et. Seq.*, NRS 385A *Et. Seq.*, NRS 386 *Et. Seq.*, NRS 388 *Et. Seq.*,
19 NRS 391 *Et. Seq.*, NRS 391 *Et. Seq.*, and NRS 392 *Et. Seq.*
20

21 **132.** Defendants failed to perform and breached their mandatory duties of care and
22 were negligent in not exercising due and reasonable care.
23

24 **133.** Defendants acted under color of state law when they failed to maintain a safe and
25 respectful learning environment for Minor Plaintiff, failed to protect him from discriminatory
26 conduct, failed to mitigate the harm, failed to promptly respond to incidents and allegations,
27 failed to carry out subsequent procedural safeguards, and increased the danger.
28

1 **134.** As a result of the state created danger, Minor Plaintiff was actually and
2 proximately harmed and sustained injuries.

3
4 **135.** Defendants had a duty to promptly respond to all complaints, incidents, notices
5 and allegations of prohibited conduct, and must also undertake safety and risk analyses,
6 determine the justified removal of a student, and treat all claims with support and assistance for
7 every victim, which does include formally filing Federal complaints.

8
9 **136.** Defendants breached their duty of care, were negligent and acted under color of
10 state law, violations which are actionable under NRS 385 *Et. Seq.*, NRS 385A *Et. Seq.*, NRS 386
11 *Et. Seq.*, NRS 388 *Et. Seq.*, NRS 391 *Et. Seq.*, NRS 391 *Et. Seq.*, and NRS 392 *Et. Seq.*

12 **137.** Defendants had a duty to meet the requirements of Minor Plaintiff's Section 504
13 Plan, and to administer, enforce, and implement its provisions to provide Minor Plaintiff with
14 equal access to and meaningful enjoyment of the privileges, benefits, and opportunities afforded
15 to him under Defendants' educational programs and activities.

16
17 **138.** Defendants breached their duty of care, were negligent and acted under color of
18 state law, violations which are actionable under NRS 385 *Et. Seq.*, NRS 385A *Et. Seq.*, NRS 386
19 *Et. Seq.*, NRS 388 *Et. Seq.*, NRS 391 *Et. Seq.*, NRS 391 *Et. Seq.*, and NRS 392 *Et. Seq.*

20
21 **139.** Defendants had final authority and decision-making capacity to identify, address,
22 halt, report, and further investigate all discriminatory acts and expressions, incidents,
23 occurrences, and allegations, and to initiate corrective and preventative measures on behalf of
24 Minor Plaintiff.

25
26 **140.** Defendants breached the duty of care owed to Plaintiffs by engaging in the
27 abovementioned conducted repeated and realleged throughout the foregoing Complaint.
28

1 **147.** As a direct and proximate result of the malicious and intentional conduct by
2 various Defendants, whose acts were directed and ratified by Defendants, Plaintiffs suffered, and
3 will continue to suffer, damages, including but not limited to such severe and extreme emotional
4 distress manifested as great humiliation, embarrassment, shame, and other pain and suffering, in
5 an amount in excess of \$75,000.00.
6

7 **148.** The intentional conduct of the Defendants was so despicable, oppressive,
8 malicious, and engaged in with such conscious disregard for Plaintiffs' rights and safety that
9 punitive damages in excess of \$75,000.00 are warranted, as is an award of attorney fees and
10 costs of this action.
11

12 **Wherefore, Plaintiffs pray for judgement against Defendants as follows:**

13 **1.** Plaintiffs seek a Declaration from the Court that Defendants have violated Minor
14 Plaintiff's constitutional right to equal protection and procedural due process;
15

16 **2.** For damages against Defendants for violation of Title IX of the Education
17 Amendments of 1972- *20 U.S.C. § 1681 Et Seq.*
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19 **3.** For damages against Defendants for violation of §504 of the Rehabilitation Act of
20 1973 *29 U.S.C. § 701 Et Seq.*

21 **4.** For special damages, both past and future, in an amount in excess of \$75,000.00
22 against the Defendant.
23

24 **5.** For general damages, both past and future, in an amount in excess of \$75,000.00
25 against the Defendant.
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27 **6.** For compensatory damages directly and proximately caused by the acts/omissions
28 of Defendants.

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7. For punitive damages in the amount to be requested at trial.

8. For reasonable attorneys' fees and costs pursuant to 20 U.S.C. § 1681, 42 U.S.C. and 42 U.S.C. § 1988.

9. For such other and further relief as this court deems proper.

AFFIRMATION - PURSUANT TO NRS 239B.030

The undersigned hereby affirm the preceding document does not contain the social security number of any person.

DATED this 16th day of March, 2023.

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