

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT
CIVIL DIVISION
CAUSE NO.

██████████, INDIVIDUALLY AND AS)
PARENT OF ██████████, A MINOR)
)
)
Plaintiff,)

v.)

THE BOARD OF SCHOOL COMMISSIONERS)
FOR THE CITY OF INDIANAPOLIS d/b/a)
INDIANAPOLIS PUBLIC SCHOOLS;)
SUPERINTENDENT ALEESIA JOHNSON,)
INDIVIDUALLY AND IN HER OFFICIAL)
CAPACITY, PRINCIPAL; MARY KAPCOE,)
INDIVIDUALLY AND IN HER OFFICIAL)
CAPACITY; VICE PRINCIPAL FINAE RENT,)
INDIVIDUALLY AND IN HER OFFICIAL)
APACITY; TEACHER; JULIOUS JOHNICAN,)
INDIVIDUALLY AND IN HIS OFFICIAL)
CAPACITY; SUBSTITUTE TEACHER)
PARDEEP DAHLIWAL, INDIVIDUALLY AND)
IN HER OFFICIAL CAPACITY,)
MR. ANTHONY BIGBY, IPS BEHAVIORAL)
CONSULTANT, INDIVIDUALLY AND IN HIS)
OFFICIAL CAPACITY)
)
)
Defendants.)

JURY TRIAL REQUESTED

COMPLAINT FOR DAMAGES AND REQUEST FOR JURY TRIAL

Comes now Plaintiff, ██████████, through his parent and next friend ██████████, and through her undersigned attorneys, files his *Complaint for Damages and Jury Trial Demand* against Defendants to recover damages and other relief resulting from the Defendants' tortious conduct and violations of ██████████'s rights under the Indiana Law and the United States Constitution and Code. This action is against The Board of School Commissioners of the City of Indianapolis d/b/a Indianapolis Public Schools (hereinafter referred to as "IPS"), Plaintiff, and Superintendent Aleesia Johnson, individually and in her official capacity; Principal Mary Kapcoe, individually

and in her official capacity; Vice Principal Finae Rent, individually and in her official capacity and Teacher; Julious Johnican, individually and in his official capacity. In support thereof, Plaintiff alleges:

I. PARTIES

Plaintiff

1. Plaintiff [REDACTED] is a minor child and at all relevant times, a student at George Washington Carver Montessori IPS School 87, an Indianapolis Public School located within Marion County.
2. [REDACTED] is a qualified individual with a disability pursuant to the ADA because [REDACTED] has a physical or mental impairment that substantially limits one or more major life activities including breathing, hearing, learning, reading, concentrating, thinking, and communicating.
3. At all relevant times, Plaintiff [REDACTED] was a Section 504 student at George Washington Carver Montessori IPS School 87 (the School) who was entrusted to the care and supervision of the School and the other named Defendants.
4. Plaintiff [REDACTED] is the mother of [REDACTED] and is bringing this action in her individual capacity and as parent and next friend of [REDACTED]
5. A pseudonym is being used as [REDACTED] is a minor with a disability, and this involves physical abuse, which is of a highly sensitive nature.

Defendants

6. Defendant Indianapolis Public Schools is the corporate name of a public school system located in Indianapolis, Indiana in the County of Marion. Its principal office is located at 120 E. Walnut St., Indianapolis, IN 46204.

7. Defendant Indianapolis Public Schools is responsible for George Washington Carver School 87, located at 2411 Indianapolis Ave., Indianapolis, IN 46208, which is located in Marion County.
8. Defendant Indianapolis Public Schools is a local educational agency within Indiana and is a recipient of federal financial assistance.
9. Defendant Indianapolis Public Schools (IPS) is an Indiana public school corporation as defined by IC § 20-26-2-4 with its principal office in Marion County.
10. Defendant The Board of School Commissioners of the City of Indianapolis, the governing body of IPS, is located in Indianapolis, Indiana in the County of Marion.
11. The highest-ranking administrator for the District is its Superintendent, who is responsible for supervising employees of the District and ensuring their compliance with District policies and procedures.
12. Defendant Aleesia Johnson is the Superintendent of IPS and resided in Marion County, Indiana at all times relevant to this action.
13. Defendant Aleesia Johnson was the Superintendent of Indianapolis Public Schools at all times relevant. At all times relevant she was acting under color of law in her capacity as the Superintendent. Her duties included ensuring that all students within IPS were afforded equal access to a public education.
14. Defendant Dr. Aleesia Johnson, as Superintendent of IPS, was responsible for ensuring the hiring, firing, training and supervising principals, teachers, teacher's aides, assistant principals, building administrative staff and other employees necessary to the operation of the schools. She was also responsible for carrying out the policies of the District and the State of Indiana's Department of Education and ensuring the school's compliance with

federal and state law. Her duties, in addition to compliance with State law, included ensuring compliance with the ADA and Section 504, and ensuring that school staff and cooperative employees, followed the requirements of the law and provided the necessary guidance, training, policies, structure, consistency and behavioral supports that would enable children with disabilities equal access to the services, programs and activities of the School.

15. Defendant Mary Kapcoe was the Principal of George Washington Carver School 87, located at 2411 Indianapolis Ave., Indianapolis, IN 46208, which is located in Marion County, at all times relevant to this action.

16. Defendant Mary Kapcoe was the Principal of George Washington Carver Montessori IPS School 87 at all times relevant. At all times relevant she was acting under color of law in her capacity as the Principal of George Washington Carver Montessori IPS School 87. Her duties included ensuring that all students within her school were afforded equal access to a public education.

17. Defendant Mary Kapcoe was responsible for hiring, firing, training and supervising teachers, teacher's aides, assistant principals, building administrative staff and other employees necessary to the operation of the school at George Washington Carver School 87 within Indianapolis Public Schools. She was also responsible for carrying out the policies of the District and the State of Indiana's Department of Education and ensuring the school's compliance with federal and state law. Her duties in addition to compliance with State law included ensuring compliance with the ADA and Section 504, and ensuring that school staff and cooperative employees, followed the requirements of the law and

provided the necessary guidance, training, policies, structure, consistency and behavioral supports that would enable children with disabilities equal access to the services, programs and activities of the School.

18. Defendant Finae Rent was the Vice-Principal at George Washington Carver School 87, located at 2411 Indianapolis Ave., Indianapolis, IN 46208, which is located in Marion County, at all times relevant to this action.

19. Defendant Finae Rent was the Vice-Principal of George Washington Carver Montessori IPS School 87 at all times relevant. At all times relevant she was acting under color of law in her capacity as the Principal of George Washington Carver Montessori IPS School 87. Her duties included ensuring that all students within her school were afforded equal access to a public education.

20. Defendant Fanae Rent, Vice-Principal, was responsible for hiring, firing, training and supervising teachers, teacher's aides, building administrative staff and other employees necessary to the operation of the school at George Washington Carver School 87 within Indianapolis Public Schools. She was also responsible for carrying out the policies of the District and the State of Indiana's Department of Education and ensuring the school's compliance with federal and state law. Her duties in addition to compliance with State law included ensuring compliance with the ADA and Section 504, and ensuring that school staff and cooperative employees, followed the requirements of the law and provided the necessary guidance, training, policies, structure, consistency and behavioral supports that would enable children with disabilities equal access to the services, programs and activities of the School.

21. Defendant Julious Johnican was a teacher at George Washington Carver School 87, located at 2411 Indianapolis Ave., Indianapolis, IN 46208, which is located in Marion County, at all times relevant to this action.
22. Defendant Julious Johnican was a teacher at George Washington Carver Montessori IPS School 87 at all times relevant and was acting under color of law in his capacity as a teacher at George Washington Carver Montessori IPS School 87. His duties included providing the structure, consistency and behavioral supports that would enable children within general education and ensuring that children with disabilities had equal access to the services, programs and activities of the District.
23. Defendant Pardeep Dahliwal was a substitute teacher at George Washington Carver School 87, located at 2411 Indianapolis Ave., Indianapolis, IN 46208, which is located in Marion County, at all times relevant to this action.
24. Defendant Dahliwal was a substitute teacher at George Washington Carver Montessori IPS School 87 at all times relevant and was acting under color of law in her capacity as a substitute teacher at George Washington Carver Montessori IPS School 87. Her duties included providing the structure, consistency and behavioral supports that would enable children within general education and ensuring that children with disabilities had equal access to the services, programs and activities of the District.
25. Defendant Anthony Bigby was an Indianapolis Public Schools Behavioral Consultant at George Washington Carver School 87, located at 2411 Indianapolis Ave., Indianapolis, IN 46208, which is located in Marion County, at all times relevant to this action.
26. Defendant Anthony Bigby was an Indianapolis Public Schools Behavioral Consultant at

George Washington Carver Montessori IPS School 87 at all times relevant and was acting under color of law in his capacity as an IPS employee for George Washington Carver Montessori IPS School 87. His duties included providing the structure, consistency and behavioral supports that would enable children within general education and ensuring that children with disabilities had equal access to the services, programs and activities of the District.

27. Defendant, the Board of School Commissioners of the City of Indianapolis (the Board) is the governing body of the District as defined by IC § 20-26-2-2.
28. As such, the Board is responsible for the operation, management, and control of District schools, development of policies and procedures for District employees, the hiring, training and supervision of all faculty and staff employed by the District, and compliance with federal and Indiana laws and regulations. The Board's principal office is in Marion County. Unless otherwise noted, Indianapolis Public Schools and the Board will be referred to interchangeably as "IPS."
29. Indianapolis Public Schools is the entity with responsibility for the ownership, operation, funding, staffing, and maintenance of George Washington Carver IPS School 87 and the hiring, training and supervision of its faculty and staff, including Defendants Superintendent Aleesia Johnson, Principal Mary Kapcoe, and School Employee and Teacher Julious Johnican.
30. At all times relevant, the IPS was responsible with the School for the delivery of services to disabled students in the School and for the training of School staff regarding relevant laws, procedures and policies. It was also responsible for ensuring that all students within the School were afforded equal access to a public education and ensuring compliance with

federal and state law, including the Defendants Superintendent Aleesia Johnson, Principal, Mary Kapcoe, and School Employee, Julious Johnican.

31. Defendants Principal Mary Kapcoe and Vice-Principal Fanae Rent were directly responsible for supervising the job performance of the teachers, including teacher Julious Johnican and substitute Ms. Pardeep Dahliwal.
32. The Court has personal jurisdiction over all parties.
33. Each Defendant was responsible in some manner for the implementation of the custom(s), policies and/or practices alleged herein and/or is a necessary party for obtaining appropriate relief. In performing each of the acts alleged in this Complaint and in omitting to do those acts that are alleged in this Complaint to have been legally required, each Defendant acted as an agent for each and all other Defendants. The injuries inflicted upon Plaintiff [REDACTED] were the proximate result of the acts and omissions of each and all of the Defendants.

ALLEGATIONS COMMON TO ALL COUNTS

34. [REDACTED] was a 7-year-old student who was in 2nd grade during the 2023-2024 School Year.
35. [REDACTED] attended George Washington Carver School No. 87 which is an Indianapolis Public School.
36. [REDACTED] is a child with disabilities, including sensory sensitivities, an executive function disorder, and probable learning disabilities.
37. IPS Schools was aware of [REDACTED]'s vulnerabilities and qualified him for a Section 504 plan given his needs as a student with disabilities and recognizing his need for a higher level of supervision and safety.

38. ■■■ was placed in the 2nd grade classroom of teacher Julious Johnican at George Washington Carver School No. 87.
39. In August 2023, ■■■ began his second-grade year.
40. Within the first few weeks of school, ■■■ began to come home sad, upset, behaviorally dysregulated, and reporting abuse, bullying, and classroom harassment.
41. At all times employed by the Indianapolis Public Schools, Johnican abused his authority as a teacher at George Washington Carver School No. 87 by orchestrating a reprehensible “fight club” type of discipline within his classroom over a span of three months in which he encouraged, instigated, and on at least one occasion recorded on his phone physical abuse of ■■■ by other students.
42. In this horrifying setup, Johnican not only permitted but incited and facilitated other students to engage in acts of violence against seven-year-old ■■■, which included at least three beatings and various forms of physical harm and bullying both for his own amusement or as a deeply disturbed disciplinary measure.
43. This systemic abuse occurred within the school premises and within ■■■’s classroom, a place where 7-year-old disabled ■■■ should have been nurtured and protected, not subjected to repeated and organized violence.
44. Johnican actively and regularly encouraged other students to engage in actions that went beyond mere pushing or shoving.
45. This involved orchestrating at least three physical assaults where ■■■ was thrown to the ground, struck, slapped, and hit in the head repeatedly. On two occasions it is reported that he held ■■■ while allowing other students to punch, hit, and kick him.

46. Additionally, [REDACTED] faced continuous threats by Johnican and was subjected to deliberate humiliation. Such conduct created a hostile and untenable environment for [REDACTED], significantly impacting his well-being and educational experience.
47. Throughout the beginning of the school year, [REDACTED] attempted to voice to his parents the distressing abuse he was enduring at school, which led to him developing a profound anxiety specifically related to the school environment.
48. [REDACTED] told his parent that in addition to threats and attacks from Mr. Johnican that a teacher working with Mr. Johnican, said that special needs students were demonically possessed.
49. [REDACTED] reported that he was told staff that he was bad and “needed to be baptized” and that “holy water needed to be poured on him” to cure him of his evil. [REDACTED]’s mother reported these statements to the Vice-Principal as well.
50. Starting in August 2023 and continuing through November 2023, [REDACTED]’s Mother communicated with the student’s teacher on multiple additional occasions regarding his reports of being attacked, bullied, threatened, and injured in the classroom.
51. [REDACTED]’s mother scheduled repeated meetings with Johnican to discuss her child’s allegations. His teacher, Johnican, dismissed these accounts when he was repeatedly contacted by the parent as behavioral issues and indicated that [REDACTED]. was lying and/or mentally ill.
52. Johnican repeatedly suggested to the parents that [REDACTED] was fabricating stories as part of an escalating effort to avoid attending school, thus leading his parents to continue to force this seven-year-old to attend school.
53. On or about September 22nd, 2023, the parent received a phone call from the School. [REDACTED].’s teacher told the parent that the student couldn’t calm down and asked her to speak

with [REDACTED] The parent assumed, based on past communications with the School, that [REDACTED]'s behavior was hyperactivity and not listening to his teacher.

54. However, when [REDACTED] got on the phone to speak to his mother, he was hysterical. The mother instantly knew something was wrong but could not make out what was happening. Unable to calm down her child enough to communicate with him, she immediately left her place of work and drove to the school.

55. When the parent arrived at the elementary school, she signed in and got her volunteer lanyard as usual. However, instead of going straight to the classroom as she usually did, she was asked to wait for the vice principal, Mrs. Finae Rent.

56. This was the parent's first time speaking to or meeting this administrator where she relayed her concerns regarding [REDACTED] and his statements to her regarding the abuse in Mr. Johnican's classroom.

57. The vice principal walked the mother down to [REDACTED]'s classroom, and when they arrived, [REDACTED] and another student were looking at their teacher, Mr. Johnican's, cell phone. They appeared to be watching something on it and it was immediately put away with [REDACTED]'s mother approached.

58. [REDACTED] was upset, traumatized, and shaken.

59. The parent demanded to observe in the classroom and was allowed to stay for approximately 45 minutes, and during the entirety of her stay, no one from the School explained to her what had happened with her son's behavior or the phone call she received.

60. [REDACTED]'s mother expressed her concerns regarding [REDACTED]'s statements of abuse in the classroom directly to Vice-Principal Finae Rent.

61. When the parent was asked to leave, [REDACTED] was allowed to walk her to the front School doors. The mother asked him what had happened that morning, and he reported in tears to her that he that he was being abused in school.
62. [REDACTED] informed his mother that in the teacher's presence and by his direction that another student had slammed his head down on a desk, pulled him to the floor, and then hit him repeatedly in the head. He directly indicated this was being done at the instruction of his teacher Mr. Johnican. Shocked, the parent tried asking [REDACTED] further questions to better understand the situation.
63. Vice-Principal Finae Rent did not follow up with the parent as to any investigation or to provide any additional information.
64. The parent again inquired of the teacher and attempted to schedule another meeting as to what was happening within the classroom. She was repeatedly informed that it was her child who was disruptive, lying, and that this was a sign of a disordered personality in the child and related to his ADHD.
65. [REDACTED]'s grades began to fall throughout the beginning of the School year.
66. [REDACTED] plead with his mother not to send him to School.
67. Tragically, as [REDACTED] continued to reach out for help, his accounts were initially met with disbelief.
68. However, the truthfulness of [REDACTED]'s statements came to light as well as the horrific abuse that he was enduring in an inadvertent disclosure by the teacher of recorded abuse.
69. On or about November 1, the parents met with [REDACTED]'s teacher, Mr. Johnican, for a parent teacher conference again regarding the Mother's concerns as to what was happening in School.

70. As part of that meeting, Johnican was going to show a video of the classroom environment to the parents.
71. Instead of the classroom environment video, Johnican inadvertently began showing the wrong video, in this one the parents saw their child being attacked, and when the parent attempted to grab the phone, he inadvertently turned up the volume where the parents could hear that it was him, the teacher, instigating and encouraging the beating of their disabled seven-year-old child.
72. In a deeply troubling display, teacher Julious Johnican was responsible for recording at least one of the incidents in which he can be audibly heard instigating violence against the seven-year-old [REDACTED] by another student.
73. The footage reveals a flagrant encouragement of physical assault.
74. The distressing content of the video made by Johnican shows [REDACTED] on the floor crying as he is repeatedly punched in the face and head by a peer who is sitting on top of him as he cries out and begs for the attack to cease.
75. Amidst this turmoil, the teacher Johnican actually prompts the aggressor to persist in hitting [REDACTED]'s head and face even as the 7-year-old sobs while lying on the floor.
76. This behavior not only exposes a severe lapse in safeguarding, but also a shocking complicity in the perpetration of abuse.
77. This video, and possibly other assaults, were witnessed by Substitute teacher Pardeep Dahliwal who was assisting in the classroom.
78. On November 1st, 2023, after the parent reported the video to the School secretary, she insisted that the police be called and that the Indiana Department of Child Services (DCS) be immediately contacted.

79. DCS began an immediate investigation of this incident.
80. As part of that investigation DCS interviewed the vice-principal, Ms. Kapcoe, who reported during her interview with DCS that she had also questioned Substitute teacher Pardeep Dahliwal.
81. The investigator records in the DCS report that when questioned as to the September 22nd, 2023, incident Ms. Kapcoe reported that Dahliwal “told Ms. Kapcoe (the Vice-Principal) regarding 7-year-old [REDACTED], and other 6- and 7-year-old children, some of which had special needs, "Their bad kids, that's what you do!"
82. At no time did Substitute teacher Pardeep Dahliwal file an incident report, file a report to DCS to report child abuse, or take any steps to ensure the protection of [REDACTED] in the classroom.
83. Johnican reports that after [REDACTED] had been beaten on September 22nd, 2023, he contacted Mr. Anthony Bigby, the IPS Behavioral Consultant to remove [REDACTED] from the classroom.
84. [REDACTED] reported the abuse to Mr. Bigby who neither contacted DCS or School administration regarding the student’s claim of abuse within his classroom.
85. During his interview with DCS, [REDACTED] was able to provide them the dates of at least two other incidents that occurred in October 2023. In those incidents, he provided that he was held down by Johnican while a first-grade child was allowed to hit him and slap his face. He provided that another incident occurred where Johnican held his shoulders while having another student punch him in the stomach and kick him in his legs.
86. DCS substantiated the abuse due to a preponderance of evidence and provided that “Johnican had knowingly and willingly engaged in behaviors towards the victims that jeopardized their overall well-being while in his care as a teacher at IPS 87.”

87. In their interviews DCS contacted Mr. Troy Harris of IPS Schools, who is in charge of Human Resources for IPS Schools.
88. Mr. Harris indicated he was aware of a video in which “Mr. Johnican recorded the physical altercation between the students and did not intervene or separate them during the incident; rather, Mr. Harris stated that Mr. Johnican was encouraging (other student) to continue to fight [REDACTED]”
89. Mr. Harris shockingly indicated, when questioned by DCS about the 7-year-old with special needs, that “he had no empathy for 7-year-old special needs [REDACTED] getting physically attacked...” as a result of a disciplinary measure in Mr. Johnican’s classroom.
90. This treatment contributed to an educational environment for [REDACTED] that was not only hostile but systematically abusive to him and other students.
91. The relentless daily verbal threats, harassment, abuse and at least three documented and substantiated physical attacks and beatings instigated by his teacher had a catastrophic effect on [REDACTED]’s mental well-being, leading to a marked deterioration in his emotional health.
92. The environment created by IPS manifested in escalating symptoms of anxiety and depression, deeply affecting this disabled seven-year-old’s educational journey. Such neglect by the Defendants, due to their deliberate indifference and inaction, exacerbated the situation.
93. The persistent misconduct was a direct result of insufficient supervision and a stark lack of support for [REDACTED]. The culmination of these oversights resulted in profound psychological and emotional trauma for [REDACTED].

94. The Defendants have fallen short of their legal and moral duties to [REDACTED]. They have not only neglected to put in place effective measures for his protection, but have also failed to supervise, establish proper policies, or sufficiently train their staff to handle such critical situations.
95. During his time at IPS Schools during the 2023-2024 academic year, [REDACTED] experienced a systematic and severe pattern of abuse, threats, and bullying at School.
96. [REDACTED] suffered physical abuse, harassment, and discrimination and he seeks damages for the harm wrought by IPS's failure to keep him safe in his school environment, and its failure to sufficiently supervise and train its officials and staff at George Washington Carver School No. 87, as well as for the harm caused by the repeated physical abuse, harassment, and discrimination.
97. As Principal, Mary Kapcoe held a pivotal position of responsibility with IPS students. Entrusted with supervision and training of teachers, classroom environments, and ensuring training of all staff on mandatory reporting, child abuse, and the laws surrounding children with disabilities. However, she failed to fulfill these responsibilities.
98. Despite being the point of contact for abuse allegations, she neither reported nor investigated the suspected mistreatment. Furthermore, she did not take the necessary measures to protect a student identified as [REDACTED], leaving serious concerns about the adherence to her duty of care.
99. As Vice Principal, Finae Rent held a pivotal position of responsibility with IPS students. Entrusted with supervision and training of teachers, classroom environments, and responding to reports of abuse, her role was crucial in fostering a secure educational environment. However, she failed to fulfill these responsibilities. Despite being the point

of contact for abuse allegations, she neither reported nor investigated the suspected mistreatment. Furthermore, she did not take the necessary measures to protect a student identified as [REDACTED], leaving serious concerns about the adherence to her duty of care. She acted with deliberate indifference to reports of abuse of this child by teaching staff.

100. In his role as teacher Julious Johnican, employed and supervised by IPS, he is in a position of trust with IPS students.

101. In the capacity of an educator, Julious Johnican carried the significant responsibility of being a trusted figure for students and complying with policies within the IPS system. His position entrusted him with the duty to educate and safeguard the well-being of his students. He failed in this duty.

102. In her role as a Substitute teacher, Pardeep Dahiwal, was in a position of trust with IPS students. In the capacity of an educator, Dahiwal carried the significant responsibility of being a trusted figure for students and complying with policies within the IPS system. Her position entrusted her with the duty to nurture, educate, and safeguard the well-being of the students. She failed in this duty and as a direct result this caused harm to [REDACTED]. She acted with deliberate indifference to abuse that she witnessed and this child's allegations of abuse.

103. In his role as the IPS Behavioral Consultant, Mr. Anthony Bigby, was in a position of trust with IPS students. In the capacity of a Behavioral Consultant Bigby carried the significant responsibility of being a trusted figure for students and complying with policies within the IPS system. His position entrusted him with the duty to nurture, educate, and safeguard the well-being of the students. He failed in this duty and as a direct result this caused harm to [REDACTED].

104. Mr. Bigby did not report ██████'s statements of abuse to any school personnel, or administrators, nor did he contact DCS, despite being a mandatory reporter. He acted with deliberate indifference to this child's allegations of abuse.
105. IPS's own negligence and the negligent hiring, retention, and supervision of its subordinates resulted in a failure to implement safeguards to protect its students from predatory behavior.
106. Administrators at IPS, especially ones who are informed of suspected abuse and bullying, like Vice-Principal Finae Rent, are supposed to function as important protections against abuse and harassment.
107. IPS failed to train its officials and staff to recognize and report abuse, discrimination, and harassment by the school counselor or other staff members and employees.
108. As a result of the IPS failure to enforce its own policies, the failure of IPS officials to report abuse or allegations of abuse to DCS or the police, Johnican was able to repeatedly victimize ██████ with impunity.
109. Johnican, a first-year teacher at IPS, who only began with them in August 2023, was given free reign over his classroom without supervision, which he used to allow and encourage the physical abuse, harassment, and injuries suffered by ██████
110. ██████ has not returned to in-person school since the disclosure of the video inadvertently by Johnican on November 1st, 2023. He is now being homeschooled.
111. Since November 2023, ██████ has now had to begin counseling and his mental health providers diagnosed him with Post-Traumatic Stress Disorder. He participates in therapeutic counseling at least once a week.

112. The Defendants failed to exercise reasonable care for [REDACTED]'s safety, failed to adequately supervise and train its staff, and were deliberately indifferent to a report of possible abuse that [REDACTED] was enduring in school.

113. The Defendants failed to exercise reasonable care and supervision of the students at school, failed to educate staff on the responsibilities to report bullying, failed to provide adequate instruction on bullying prevention to its students per Indiana Code 70-30-5-5.5, and were negligent in failing to address the student's psychological needs when they learned of alleged bullying and harassment, and abuse by a school staff member, was occurring on their property during school hours.

114. The Defendants' wrongful acts or omissions may be continuing, or ongoing and additional investigation is necessary to determine all of the multiple dates of abuse. DCS has performed its investigation and substantiated at least claims of five dates of

115. The qualified immunity afforded the Defendants and their employees by Indiana Code 20-20-40-15(c) is inapplicable here because it only applies to actions taken by School staff "if the action is taken in good faith and is reasonable." The same applies for the immunities provided in the Indiana Tort Claims Act, including but not limited to Indiana Code 34-13-3-3(20).

CLAIMS FOR RELIEF

COUNT I **NEGLIGENT CARE AND SUPERVISION/NEGLIGENCE PER SE**

116. Plaintiff incorporates her previous allegations as if fully set forth herein.

117. Defendants owed [REDACTED] common law and statutory duties of reasonable care and supervision. This includes the duty to monitor and supervise classrooms and the relationships between District employees and their students, including [REDACTED]

118. At all relevant times herein, school policies required, all Defendants had a duty to keep students safe and protect students within the district.
119. At all relevant times herein, Defendant and Superintendent Aleesia Johnson; Principal, Mary Kapcoe; and Vice-Principal, Finae Rent, had a duty to supervise officials, teachers and other staff members.
120. At all relevant times herein, Defendants and Superintendent Aleesia Johnson; Principal, Mary Kapcoe; and Vice-Principal, Finae Rent had a duty to supervise students.
121. At all relevant times herein, IPS required ██████ to attend School and also created relationships between officials, teachers, or other staff members and students.
122. At all relevant times herein, Defendants IPS and Superintendent Aleesia Johnson had a duty to properly train and supervise its principals, teachers, and staff members, to include taking steps to eliminate conditions or practices that violate, discourage or interfere with the ethics and laws.
123. At all relevant times herein, Defendant IPS and Superintendent Aleesia Johnson had a duty not to employ teachers, substitute teachers, or other staff members whom IPS knew acted inappropriately with minor students and who demonstrated a propensity toward committing unlawful acts against minor students.
124. At all relevant times herein, Defendants IPS and Superintendent Aleesia Johnson; Principal, Mary Kapcoe; and Vice-Principal, Finae Rent, had a duty to take steps to eliminate conditions or practices that encouraged or allowed harassment, abuse, or other misconduct by teachers.
125. At all relevant times herein, IPS, its officials and employees, had a duty to immediately report suspected child abuse or neglect to DCS.

126. Defendants IPS and its officials and employees breached their duties as described herein and said breaches constitute negligence.
127. Despite being made aware of allegations of possible abuse within the classroom, IPS failed to investigate any claims, and allowed Johnican to continue his employment as a teacher.
128. IPS and its officials' conduct amounts to a deliberate indifference to the safety of [REDACTED]
129. IPS and its officials failed to act despite obvious and repeated warning signs.
130. IPS and its officials ignored known or obvious consequences of their failure to train or supervise its administrators and staff.
131. Defendants IPS and Superintendent Aleesia Johnson; Principal, Mary Kapcoe; and Vice-Principal, Finae Rent, acted negligently and it was reasonably foreseeable that their failure to implement reasonable prevention measures.
132. Defendants IPS and Principal, Mary Kapcoe, and Vice-Principal, Finae Rent acted negligently and it was reasonably foreseeable that their failure to train their teachers and staff to recognize signs of abuse and created a risk that behavior of the type that Johnican committed would occur.
133. In addition to the District's common law and statutory duties, the Board's own written policies gave rise to certain duties of care and supervision owed to [REDACTED]
134. Upon information and belief, Defendants knew or should have known of Johnican's need for increased supervision as this was his first-year teaching, [REDACTED] was a special needs child, and [REDACTED]'s parent was complaining and expressing concern regarding his possible inappropriate conduct with children.

135. [REDACTED]'s parent expressed that she had concerns about the classroom environment and reports of bullying, threats, and abuse directly to an IPS administrator, Vice-Principal Finae Rent who as early as September 22nd, 2023, had reason to know that allegations existed and upon information and belief took no action to investigate.
136. Upon information and belief, Behaviorist Anthony Bigby was informed of the abuse by the child as early as September 22nd, 2023. He took no steps to investigate or intervene. He did not contact DCS.
137. Upon information and belief, Defendants breached those duties and, as a direct and proximate result of their negligence and negligence per se, [REDACTED] sustained damages in the form of personal injury, pain and suffering and emotional distress.

COUNT II
NEGLIGENT HIRING, RETENTION, AND SUPERVISION

138. Plaintiff incorporates her previous allegations as if fully set forth herein.
139. Defendants had a duty to exercise reasonable care in the hiring, retention and supervision of their employees, including and in addition to its common law duties of care, the Board's own written policies charge the District's Superintendent with responsibility for supervising District employees.
140. Once Defendants hired Johnican, they had a duty to supervise him, which includes the duty to ensure his compliance with Board policies and to monitor his interactions with students, including [REDACTED]
141. Upon information and belief, Defendants breached their duty by their failure to conduct a proper background investigation of Johnican before hiring him, failure to properly supervise him while employed by the District, failure to ensure his compliance with Board

policies which are intended to ensure the safety and welfare of students, failure to monitor his interactions with students and retaining him when they knew or should have known of his propensity to have inappropriate interactions with students, including [REDACTED]

142. Upon information and belief, as a direct and proximate result of Defendants' negligence, [REDACTED] suffered personal injuries and emotional distress. Mother has suffered severe emotional distress and incurred expenses for the care and treatment of [REDACTED]

COUNT III

INADEQUATE POLICIES AND PROTECTION (42 U.S.C. § 1983) AS TO INDIANAPOLIS PUBLIC SCHOOLS AND DEFENDANTS SUPERINTENDENT ALEESIA JOHNSON, PRINCIPAL MARY KAPCOE, VICE PRINCIPAL FINAE RENT

143. Plaintiff incorporates her previous allegations as if fully set forth herein.

144. Upon information and belief, Defendants failed to provide or failed to implement an adequate policy to guide school officials and teachers in respect to violence, appropriate programming, discipline, and student-on-student aggression such as what happened to students like [REDACTED] *See* 42 U.S.C. § 1983.

145. Upon information and belief, Defendants failed to adequately train and supervise school officials and teachers on how to respond to reports and incidents like those experienced by students like [REDACTED]

146. Upon information and belief, Defendants failed to conduct a meaningful investigation into the actions of school officials such as Mr. Johnican and thus ratified their actions as official policy, causing Defendants to be liable for their constitutional violations.

147. Upon information and belief, the failure to provide adequate policies, training, supervision, monitoring, and investigation of Defendants' actions was outrageous and deliberately indifferent to the rights of students, including [REDACTED]

148. Upon information and belief, Defendants' rules, regulations, customs, policies, practices, usages, procedures, inadequate training and supervision, and ratification of Defendants' actions, were all inadequate and unreasonable and were the moving force behind the constitutional deprivations suffered by [REDACTED] and Plaintiff.

COUNT IV

STATE CREATED DANGER 42 U.S.C. § 1983 AS TO DEFENDANTS SUPERINTENDENT ALEESIA JOHNSON, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY, PRINCIPAL; MARY KAPCOE, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; VICE PRINCIPAL FINAE RENT, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY

149. Plaintiff incorporates her previous allegations as if fully set forth herein.

150. Defendants have, under color of law, deprived [REDACTED] and Plaintiff of rights, privileges, and immunities secured to them by the United States Constitution including the right to due process under the Fourteenth Amendment, and specifically to the right to be free from affirmative actions, directly increasing [REDACTED]'s vulnerability or otherwise placing him in danger and taking away from his parents their ability to protect him. *See* 42 U.S.C. § 1983.

151. Upon information and belief, Defendants acted with deliberate indifference when they failed to supervise school classrooms. Defendants acted with deliberate indifference when they concealed from his parents the danger [REDACTED] was in at school, causing them serious emotional distress when they could not protect him.

152. At all times relevant to this complaint, Plaintiff [REDACTED] was a student within the School overseen by the Defendants.

153. Defendants, at all times relevant to this complaint, were responsible for the creation and enforcement of policies and practices and are sued in their official and individual capacities.

154. Upon information and belief Defendants acted with deliberate indifference when they either ignored or concealed from his parents the extent of the abuse that [REDACTED] was experiencing at school.
155. Defendants had a duty to protect students, particularly those with known mental health and disability issues, from harm while at school.
156. Upon information and belief, Defendants failed to adopt or implement adequate policies or practices to protect these vulnerable students.
157. Upon information and belief, Defendants, with deliberate indifference, ignored the specific known risks to [REDACTED], thereby placing him in a position of danger he would not have otherwise faced.
158. Upon information and belief, Defendants either ignored, failed to investigate, or concealed critical information regarding the dangers faced by [REDACTED] at school from his parent, preventing her from taking steps to ensure his safety.
159. As a direct and foreseeable result of the Defendants' actions and inactions, [REDACTED] suffered significant harm, and his parent suffered serious emotional distress.

COUNT V

SPECIAL RELATIONSHIP (42 U.S.C. § 1983) AS TO DEFENDANTS SUPERINTENDENT ALEESIA JOHNSON, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY, PRINCIPAL; MARY KAPCOE VICE PRINCIPAL FINAE RENT, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; TEACHER; JULIOUS JOHNICAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; SUBSTITUTE TEACHER PARDEEP DAHLIWAL, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY, MR. ANTHONY BIGBY, IPS BEHAVIORAL CONSULTANT, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY

160. Plaintiff incorporates her previous allegations as if fully set forth herein.
161. Defendants have, under color of law, deprived [REDACTED] and Plaintiff of rights, privileges, and immunities secured to them by the United States Constitution including the right to due

process under the Fourteenth Amendment, and specifically to the right to be kept safe when a special relationship has been created and by taking away from his parents their ability to protect him. *See* 42 U.S.C. § 1983.

162. Upon information and belief, the Defendants' actions put [REDACTED]'s safety, physical and psychological needs at incredible risk, and caused him to suffer greatly, the source/origin of which was personal physical injury. Defendants acted with deliberate indifference when they concealed from his parents the danger [REDACTED] was in at school, causing them serious emotional distress when they could not protect him.

163. This special relationship is predicated on the compulsory nature of [REDACTED]'s education and the custodial role that the School and the Defendants had during [REDACTED]'s school hours. This created an affirmative duty to ensure the safety and well-being of [REDACTED], made even more substantial by [REDACTED]'s special education needs.

164. Upon information and belief, the Defendants were aware of [REDACTED]'s needs, and failed to take appropriate action to prevent it, violating his rights to personal security and equal protection. The Defendant's inaction or inadequate response to reported allegations of potential abuse within a classroom constituted a failure to fulfill their protective obligations inherent in the special relationship, thus resulting in a violation of the child's civil rights.

**COUNT VI
SHOCKS THE CONSCIENCE (42 U.S.C. § 1983) AS TO DEFENDANTS VICE
PRINCIPAL FINAE RENT, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY;
TEACHER JULIOUS JOHNICAN, INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY; AND SUBSTITUTE TEACHER PARDEEP DAHLI WAL, INDIVIDUALLY
AND IN HER OFFICIAL CAPACITY**

165. Plaintiff incorporates her previous allegations as if fully set forth herein.

166. Defendants have, under color of law, deprived [REDACTED] and Plaintiff of rights, privileges, and immunities secured to them by the United States Constitution including the right to due

process under the Fourteenth Amendment, and specifically to his right to be free from government actions that shock the conscience. *See* 42 U.S.C. § 1983.

167. Upon information and belief, the Defendants' actions caused [REDACTED] daily distress, loss, and emotional turmoil and put [REDACTED]'s mental health and life at risk in addition to causing him to suffer greatly.

168. Defendants acted with deliberate indifference when they concealed from his parents the danger [REDACTED] was in at school, causing them serious emotional distress when they could not protect him.

COUNT VII

VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION AS TO DEFENDANTS SUPERINTENDENT ALEESIA JOHNSON, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY, PRINCIPAL; MARY KAPCOE, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; VICE PRINCIPAL FINAE RENT, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; TEACHER; JULIOUS JOHNICAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; SUBSTITUTE TEACHER PARDEEP DAHLI WAL, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY, MR. ANTHONY BIGBY, IPS BEHAVIORAL CONSULTANT, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY

169. Plaintiff incorporates her previous allegations as if fully set forth herein.

170. Defendants have, under color of law, deprived [REDACTED] and Plaintiff of rights, privileges, and immunities secured to them by the United States Constitution including the right to equal protection under the Fourteenth Amendment. *See* 42 U.S.C. § 1983.

171. Defendants violated [REDACTED] and Plaintiff's equal protection rights when they treated students who were victims of teacher abuse and student-on-student aggression differently than they treated students who were in accidents at school. While students who experience accidents at school are given appropriate and adequate medical treatment, and their parents are informed of the incident, students who are victims of teacher abuse and student-on-student aggressive behavior are not protected, their medical needs are not taken seriously,

and their parents are not informed of the incident or the injury, thus depriving them of the ability to protect their son.

172. There is no rational basis for treating these two groups differently.

173. Defendants' actions put [REDACTED]'s life and mental health at risk and caused him to suffer greatly. Defendants acted with deliberate indifference when they concealed from his parents the danger [REDACTED] was in at School, causing them serious emotional distress when they could not protect him.

COUNT VIII

INTENTIONAL INFLICTION OF SERIOUS EMOTIONAL DISTRESS TEACHER, JULIOUS JOHNICAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; SUBSTITUTE TEACHER PARDEEP DAHLIWAL, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY

174. Plaintiff incorporates her previous allegations as if fully set forth herein.

175. Upon information and belief, the Defendants have, by their extreme and outrageous conduct, intentionally or recklessly inflicted severe emotional distress on [REDACTED] and Plaintiffs.

176. Upon information and belief, the distress inflicted on Plaintiffs was the originating substantial factor in [REDACTED]'s PTSD, mental health injuries and inability to attend school.

COUNT IX

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AS TO TEACHER, JULIOUS JOHNICAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; SUBSTITUTE TEACHER PARDEEP DAHLIWAL, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY

177. Plaintiff incorporates her previous allegations as if fully set forth herein.

178. Defendants negligently and recklessly inflicted severe emotional distress on [REDACTED]'s parent, bystanders to her child's repeated claims of abuse.

179. Defendants negligently and recklessly inflicted severe emotional distress on [REDACTED]'s parent, bystander to her child's repeated claims of abuse.

180. Defendants' actions were not only negligent but reckless.

COUNT X

DISABILITY DISCRIMINATION AS TO DEFENDANTS SUPERINTENDENT ALEESIA JOHNSON, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; PRINCIPAL MARY KAPCOE, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; VICE PRINCIPAL FINAE RENT, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; TEACHER, JULIOUS JOHNICAN, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; SUBSTITUTE TEACHER PARDEEP DAHLIWAL, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; MR. ANTHONY BIGBY, IPS BEHAVIORAL CONSULTANT, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY

181. Plaintiff incorporates by reference her prior allegations as if fully set forth herein.

182. This claim is brought against the Defendants pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 et seq. ("Section 504") and its implementing regulations, 34 C.F.R. § 104 et seq. and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132 and its implementing regulations, 28 C.F.R. Part 35.

183. Each Defendant named in this Count is a "public entity" as defined by 42 U.S.C. § 12131(1).

184. Defendants operate a "program or activity" as defined by 29 U.S.C. § 794(b); namely, provision of educational services.

185. Defendants receive federal financial assistance.

186. ■■■■ is a "qualified individual with a disability" as defined by 42 U.S.C. § 12131(2).

187. By reason of his disability, Defendants intentionally excluded ■■■■ from participation in or denied him the benefits of the services, programs or activities of a public entity or intentionally subjected ■■■■ to discrimination.

188. Section 504 guarantees ■■■■ the right to participate, along with nondisabled students, in nonacademic and extracurricular activities (e.g., lunch, recess, recreational activities) and services to the maximum extent appropriate to his needs. 34 C.F.R. § 104.34(a), (b).

189. ■■■■■'s medical condition substantially limits one or more major life activities. He is an "individual with a disability" as defined by 29 U.S.C. § 705.

190. Defendants discriminated against ■■■■■. by reason of his disability in violation of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 et seq. Specifically, Defendants deprived him of the opportunity to attend school and participate in their programs or activities to the same extent as his nondisabled peers, subjected him to a hostile educational environment, allowed him to be bullied and intimidated, and disciplined him for behaviors related to his disabilities.

191. ■■■■■'s right to attend public school and participate in its programs or activities free from discrimination on the basis of his disability is a clearly established statutory right of which reasonable school employees would have been aware.

192. Defendants knowingly and intentionally excluded ■■■■■ from participation in, denied him the benefits of, or otherwise subjected him to discrimination under a program or activity which receives federal financial assistance in violation of 34 C.F.R. § 104(a).

193. By denying ■■■■■ equal access to educational programs or activities by numerous acts of abuse, inappropriate discipline, denial of participation, and creating a hostile educational environment, Defendants discriminated against him because of his disability.

194. Non-disabled persons receive the benefits or services for which ■■■■■ is otherwise qualified, but ■■■■■, solely by reason of his disability, was excluded from, denied participation in or denied the benefits of attending school by Defendants or was otherwise subjected to discrimination by Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court award:

A. Actual damages in an amount to be shown at trial;

- B. Compensatory damages in an amount to be shown at trial;
- C. Punitive damages in an amount to be shown at trial;
- D. Costs incurred in this action and reasonable attorney fees under 42 U.S.C. §1983;
- E. Prejudgment interest; and
- F. Such other and further relief as this Court may deem just and appropriate.

JURY DEMAND

Plaintiff requests a jury trial on all claims triable to a jury.

Dated: April 16, 2024

Respectfully submitted,

/s/Catherine M. Michael
Catherine M. Michael, IN Bar No. 22474-49
Connell Michael, LLP
550 Congressional Ave., Suite 115
Carmel, IN 46032
Ph:317-343-4482
Email: catherine@connellmichaellaw.com

/s/ Tammy J. Meyer
Tammy J. Meyer, #14612-49
METZGER ROSTA LLP
32 S. 9th Street
Noblesville, Indiana 46060
Telephone: (317) 219-4606
Facsimile: (317) 214-9437
Email: tammy@metzgerrosta.com

Attorneys for Plaintiff