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\_\_\_\_\_) )  
M.R., by and through next friend, Mary )  
Simmons; K.S.; D.M., by and through )  
next friend, Pinkie Manassa; S.A., by )  
and through next friend, Michelle )  
Manassa; J.C., by and through next friend, )  
Alicia Campbell; E.M. by and through )  
next friend, Michelle Manassa; C.H., by )  
and through next friend, Margaret Hobson; )  
and G.H., by and through next friend, )  
Emma Irby, on behalf of themselves and )  
all similarly situated individuals, )  
 )  
Plaintiffs, )  
 )  
v. ) Case No. 11-cv-245-WS-C  
 )  
BOARD OF SCHOOL COMMISSIONERS )  
OF MOBILE COUNTY, )  
 )  
Defendant. )  
\_\_\_\_\_) )

I

1. This is a federal civil rights action brought by eight Mobile County Public School System ("MCPSS" or the "District") ~~students~~ on behalf of a class of MCPSS students to challenge the violation of their Fourteenth Amendment ~~rights~~ notice and a hearing before being punished with long-term suspensions. ~~The~~ Plaintiffs, all students in the Mobile County Public Schools, have been long-term ~~suspended~~ ~~without~~ proper notice ~~and~~ hearing for minor infractions. One was long-term suspended ~~for~~ his shirt untucked ~~and~~ for not carrying

his identification badge. When another student arrived late, he was suspended for the remainder of the semester and never had an opportunity to defend himself. Under the Due Process Clause of the Fourteenth Amendment to the United States Constitution, school administrators must provide students with a fair hearing before suspending them with long-term suspensions. By great widespread custom of suspending students without notice and a hearing, the Defendant Board deprived the named Plaintiff and many other students of these important constitutional rights. Those include not only the students, but also their families and communities.

2. This complaint challenges the custom of many school administrators in the MCPSS of long-term suspending students first providing notice of proposed suspensions and hearings so that students and parents can challenge those suspensions, and the Defendant Board's policy of turning a blind eye to that custom. This complaint also alleges that the supervision, training, and monitoring policies and procedures of the Board and high-level officials have implemented have caused this to occur.

3. The Defendant Board's actions have caused Plaintiff and other students to suffer academically and emotionally. After suspended long-term, many students have been forced to repeat classes or whose graduation will not graduate on time. Many want to return to school but do not feel welcome there.

4. To address these harms and to stop them from occurring in the future, the Plaintiffs, on behalf of a class of similarly situated students, seek, among other things, an order requiring an end to this unconstitutional custom and practice, and that the disciplinary procedures for suspensions of more than ten school days in the 2010-2011 MCPSS Student Handbook and Code of Conduct violate the procedural guarantees of the Fourteenth

Amendment to the United States Constitution and that the Board revise to ensure the clarity of, monitor, and supervise compliance with the due requirements of the Student Handbook and Code of Conduct. These changes to the MCPSS disciplinary procedure are needed to ensure basic fairness to students subjected to lengthy suspensions from school and the resulting loss of educational opportunity.

I ■

5. The federal claims in this action arise under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331 and 1343(a).

6. Venue is proper in the Southern District of Alabama under 28 U.S.C. § 1391(b)(2)

suspended again without notice or a conference for having too many tardy violations. C.H. brings this action through next friend Margaret Hobson.

9. Plaintiff G.H. is a student residing in Mobile, Alabama. In August 2010, G.H. enrolled at John L. Leflore High School as a ninth grader. Since then G.H. has been long-term suspended without receiving notice and conference several times for non-violent infractions. G.H. brings this action through next friend Emma Irby.

10. Plaintiff K.S. is a student residing in Mobile, Alabama. K.S. enrolled at Mattie T. Blount High School for the 2010-2011 school year and attended school there until January 2011 when K.S. was long-term suspended without receiving notice and a conference, apparently for being late to class. K.S. re-enrolled at Blount for the 2011-2012 school year.

11. Plaintiff D.M. is a student with a disability residing in Mobile, Alabama. D.M. enrolled for the 2010-2011 school year at Mattie T. Blount High School and attended school there until being long-term suspended without receiving notice and conference, apparently for being tardy. D.M. re-enrolled at Blount for the 2011-2012 school year. D.M. brings this action through next friend Pinkie Manassa.

12. Plaintiff S.A. is a student residing in Mobile, Alabama. S.A. began the 2010-2011 school year at Mattie T. Blount High School. After attending school for a few weeks, S.A. was long-term suspended for having a shirttail out. S.A. did not receive notice of proposed suspension or a conference. S.A. re-enrolled at Blount for the 2011-2012 school year. S.A. brings this action through next friend Michelle Manassa.

13. Plaintiff J.C. is a student with a disability residing in Mobile, Alabama. J.C. attended Mattie T. Blount High School for approximately three weeks in August 2010. At the end of August, J.C. was long-term suspended for the semester for not having an official

identification badge. If by this action by and through next friend Alicia Campbell.

14. Plaintiff E.M. is a student residing in Mobile, Alabama. E.M. enrolled for the 2010-2011 school year at C.L. Scarborough Middle School and attended until late March 2011 when he was long-term suspended for the rest of the year for skipping a class. E.M. re-enrolled at Scarborough for the 2011-2012 school year through next friend Michelle Manassa.

B D

15. Defendant Board of School Commissioners of Mobile County (the "Bo"). M. is 11

sued. It M. is also a minor under 42 U.S.C. § 1983 when

mm

19. Suspension is ineffective in changing behavior for many students, and appears to reinforce negative behaviors for students who are uncomfortable in school. Nevertheless, school administrators repeatedly suspend students for minor misconduct and non-violent behaviors.

20. Students who are suspended are more likely to back a grade, drop out, or to become involved in delinquent activity.

B. ~~III~~

1. ~~III~~

21. The Board of School Commissioners of Mobile was created by a special Act of the Alabama Legislature in 1826. The Board is a corporation that can sue and be sued. No. 242, Ala. Legis. (1875) has five elected members.

22. The Board of School Commissioners of Mobile has a duty to “determine and establish a written educational policy for the board of education, its employees and . . . [to] prescribe rules and regulations for the conduct and management of

to broadly disseminate . . . [it] following option.” Ala. Code § 16-28A-3 (1975) also Ala. Code §§ 16-28-12, 16-1-24.1 (1975).

26. The Board must publish its disciplinary code of conduct that includes “procedures to be followed for acts disciplining.” Ala. Code § 16-1-24.1 (1975).

27. The Board has a duty to ensure that the student discipline behavior policy are “given to all teachers, staff, and students.” Ala. Code § 16-28A-3 (1975);

Ala. Code § 16-28-12 (1975) (reg. Superintendent to provide commencement of the school year a copy of the written policy behavior to each parent, guardian, or other person having control of a student).

28. The Board has final authority with regard to personnel matters, including whether to enter and renew contracts with principals, whether to approve employee discipline and termination recommendations.

29. The Board has a duty to carry out all of the aforementioned duties in a manner that does not violate federal law. Act No. 242, Ala. Legis. (1875).

30. Children in Mobile County are entitled to education under the laws of the state of Alabama, and therefore have a property interest in receiving that education.

2. **II**

31. The Superintendent serves as a member of the Board and provides general supervision to the District through the leadership team, and professional assistants who have responsibility from various areas of operations.

32. The leadership team is composed of the Deputy Superintendent, the Assistant Superintendents of Academic Affairs, and five Directors of various divisions, such as Human Resources, Security, Facilities, and Student Support Services.

33. The Superintendent has delegated all management and supervisory responsibility to the

members of the leadership team.

34. The Executive Director of Student Support Services (EDSSS) serves directly under the Superintendent. His division has responsibility for student discipline, enrollment, withdrawal, school transfers, and attendance.

35. The EDSSS has policymaking authority. The EDSSS has the duty to monitor compliance with due process procedures. The EDSSS has advisory authority over school administrators with regard to compliance with discipline and due process policies, and has the authority to place disciplinary notices in their personnel files.

36. The EDSSS regularly fields requests from principals with regard to disciplinary policy and procedure. The EDSSS is considered the final authority on due process policy in the District.

37. The EDSSS is also responsible for overseeing the student disciplinary due process system and developing amendments to the District's disciplinary and due process policies. The EDSSS oversees the production and distribution of the District's Handbook, which contains the student discipline policies and procedures.

38. The EDSSS is ultimately responsible for discipline in the District. He reviews the policies, develops proposed changes, solicits staff opinions about his proposed changes, and decides what proposed changes are sent to the Board.

39. The Superintendent and the Board consult the EDSSS on matters of disciplinary policy and practice.

3. ~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~

40. The Board has a duty to develop policies governing the procedures for imposition of suspensions. The Board has a duty to ensure policies comply with the requirements of



**federal and state law. The Board has delegated**

the proposed changes to the Student Handbook and Code of Conduct. It defers to district administrators on the content of the Student Handbook and Code of Conduct.

C

48. All administrators, teachers, parents, and students in the MCPSS are subject to the policies contained in the Handbook.

49. The Handbook sets forth policies governing, among many other things, the imposition of out-of-school suspensions on students. It also defines potential punishment ranges and procedures.

50. The Handbook defines a long-term suspension as an out-of-school suspension lasting from eleven days to the end of the semester.

51. The Handbook authorizes long-term suspensions for infractions. Many of these infractions are non-criminal and non-violent in nature.

52. The Handbook sets forth various infraction groups and classifies them into categories. Group A covers "Disruptive Behaviors" such as excessive talking in class, dress code violations, and tardiness. Group B covers "Serious Disruptive Behaviors," such as cutting class, use of electronic devices, using profane language, and willful disobedience. Group C, D, and E cover various types of misconduct that constitute a criminal offense.

53. The Handbook specifically authorizes long-term suspensions for Group B, C, D, and E infractions. In addition, administrators frequently impose long-term suspension for repeated dress code violations, and other Group A infractions. They do so by coding these repeat infractions as "act[s] of willful disobedience," a category the Student Handbook does not define.

54. The procedures administrators must follow when imposing a long-term suspension are set forth in a section of the Student Handbook entitled "Procedures for Formal Action."



**before imposition of a long-term ~~onsp~~ 2011-2012 Handbook requires written notice**

each year.

68. Many parents in Mobile Alabama do not have the formal education level at least equivalent to the reading level of the Student Handbook or notice of suspensions.

69. Parents of students in MCPSS are not adequately notified of their right to a due process hearing when their children are long-term suspended.

70. Parents of students in MCPSS are not adequately notified of their right to appeal a long-term suspension of their children.

71. The Board and EDSSS are also on notice that parents and students are unaware that they can appeal suspensions.

72. The Handbook does not provide meaningful distinctions between infractions that are subject to long-term suspension and those that are not.

73. On information and belief, the Defendant has not adopted procedures for ensuring uniformity in the application of guidelines of infractions to student conduct.

E ~~EN~~ ~~EN~~

74. In the Mobile County Public Schools, there is a persistent, widespread custom of school administrators suspending students for more consecutive school days without providing advance notice of the proposed suspension and a hearing to the student and parent before the long-term suspension is imposed.

75. Administrators frequently suspend students providing the required notice of the proposed suspension and a student conference. The records provided by the District suggest that for 711 long-term suspensions imposed from February 2011 to March 2012, no notice of proposed suspension was created.

76. Administrators frequently suspend students first providing a hearing where the

parent and child can together review and the evidence against the child, respond to the accusation, marshal evidence against it, and present evidence against the imposition of a long-term suspension. Electronics provided by the district contain no evidence of a parent/student conference in relation to long-term suspensions imposed on 455 students from the 2009-10 school year to the present.

77. Violations of procedural due process are a systemic problem. This practice has not been limited to one or two schools, but has occurred repeatedly at many schools throughout the District.

78. The District's electronic records show that of administrators from dozens of schools have imposed long-term suspensions for which records suggest either no notice was provided, no hearing was held, or both.

79. Students have been suspended long-term for infractions, including minor dress code violations such as wearing the wrong colored belt, wearing a belt, or wearing the wrong colored shoes.

80. Students have been told by school administrators to return to school without a suspension being imposed.

81. Students that are subjected to long-term suspensions are deprived of a significant liberty interest as their reputation in their community is negatively impacted.

82. Long-term suspensions from school can damage a student's standing with their fellow pupils and teachers, as well as interfere with their opportunities for higher education and employment.

83. Given such a significant, and potentially, negative impact on student's liberty interest the minimal requirements of the Due Process Clause must be satisfied.

84. The Defendant Board did not provide the procedural due process protections to students facing long-term suspensions.

85. The Board has had ample opportunity to remedy the procedural due process failing the MCPSS disciplinary system, but has ~~materially~~ acted to prevent or cure such deprivations.

1. ~~with~~ ~~the~~ ~~board~~ ~~and~~ ~~the~~ ~~school~~ ~~district~~ ~~has~~ ~~not~~ ~~acted~~ ~~to~~ ~~remedy~~ ~~the~~ ~~procedural~~ ~~due~~ ~~process~~ ~~failings~~ ~~of~~ ~~the~~ ~~MCPSS~~ ~~disciplinary~~ ~~system~~ ~~and~~ ~~has~~ ~~acted~~ ~~to~~ ~~prevent~~ ~~or~~ ~~cure~~ ~~such~~ ~~deprivations~~.

86. The Board of School Commissioners, the ~~Superintendent~~, and the ~~Chief~~ Director of Student Support Services have repeatedly ~~been~~ aware of this custom of suspending students without due process ~~and~~ have acted with deliberate indifference in the face of this information.

87. In 2010, one or more high-level MCPSS ~~officials~~ were aware of a principal's imposition of an off-campus, unauthorized punishment ~~on~~ a student during the school day, without the knowledge of the student's parent. The MCPSS ~~officials~~ failed to conduct an investigation into the incident.

88. The principal had been engaging in a ~~practice~~ of formally long-term suspending students, without providing a proposed suspension and a parent-student due process conference, and sending the suspended ~~students~~ to the police station ~~to~~ sit in the hallways, bathrooms, and do assignments during the school day.

89. When the investigation was completed, ~~the~~ Superintendent and the Human Resources department were advised of the results of the investigation. The Human Resources

department informed the principal's supervisor and asked for a punishment recommendation, which the supervisor provided.

90. The Board substantially diminished the punishment.

91. The principal was allowed to remain principal of the school.

92. In the time since this incident, the principal has not been subjected to an increased level of supervision or monitoring or required any training to help prevent another violation of students' due process or other rights. The Board did not order any increased supervision or training to prevent another occurrence.

93. As a result, this principal has continued to long-term suspend students without due process and has sent additional students to the station during those suspensions.

94. These allegations were reported to the District Human Resources and the Security Department by one or more employees during the 2011-2012 school year.

95. The principal remained at the school throughout the 2011-2012 school year.

96. The principal will remain at the school in the coming year.

2. ~~THE~~

97. The Board, Superintendent, and other administrators were made aware of the practice of long-term suspension without due process at Blount High School and Scarborough Middle School through the filing of the lawsuit *in. v. Board of School Commissioners of Mobile County, et al.*, on May 12, 2011.

98. The complaint filed in this lawsuit not only challenged the District's official due process policy, contained in the 2010 Handbook, was being challenged, but also alleged that school administrators at Blount High School and Scarborough Middle School had been engaging in a practice of imposing long suspensions on students without providing even the reduced due process by the District's challenged policy.





conference, and a notice of suspension.

108. The official contacted the Deputy Superintendent because the principal's contract was up for renewal the following spring and the official stated that the contract should not be renewed.

109. At that time, Ms. Peek told the official she had spoken with Board President Manzie about the matter and that Manzie had told her and another Board member would not support termination, and that it would be supported by the Board.

110. As a result, the Deputy Superintendent proceeded with the contract renewal despite the concerns about the principal's compliance with due process.

111. In the spring of 2011, Superintendent Peek, who had been appointed Superintendent in the interim, received additional complaints against the principal regarding at least two other students who were long-term suspended without notice and a hearing.

112. The official again approached Superintendent Peek, this time with a recommendation to terminate the principal.

113. Superintendent Peek again stated that she had talked to Board President Manzie about the matter and that Manzie said that she would not support the termination.

114. Superintendent Peek did not formally propose termination of the principal to the Board.

115. The Principal who violated the students' due process rights will remain a principal at the same school in the coming year. A new principal has been assigned to that school.

116. The Board's actions have shown that they will hold principals accountable for violations of the due process rights of students.

117. On information and belief, at least one Board member also is on notice of the custom of long-term suspending students without a conference, due to requests for assistance received from members of the community.

3. ~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~

118. Executive Director of Student Support Services Mixon ~~is~~ aware that school administrators frequently violate ~~MCPS's~~ procedures in the imposition of suspensions.

119. Mr. Mixon has acted with deliberate indifference ~~in~~ the face of this knowledge.

120. Mr. Mixon receives calls, visits, and info ~~from~~ parents whose children have been suspended from school long-term.

121. Mr. Mixon has frequent conferences ~~with~~ parents who are unsatisfied with the handling of their child's suspension.

122. As a result of these interactions ~~in~~ the District and belief, Mixon has repeatedly heard allegations that principals do ~~not~~ follow the District's due process procedures for long-term suspensions.

123. Mr. Mixon has repeatedly received info ~~indicating~~ that a school administrator did not provide a notice of proposed conference ~~at which~~ parent and student could challenge the proposed suspension.

124. Mr. Mixon has repeatedly received info ~~that~~ school administrators exclude students with behavior problems ~~from~~ in violation of District policy.

125. In spite of this knowledge ~~he~~ has not increased training ~~of~~ school administrators to address these problems.

126. Mr. Mixon also has not monitored to ~~determine~~ scope of the ~~violations~~ at particular schools, although monitoring is his duty.

127. Mr. Mixon also consults frequently ~~with~~ principals via email and telephone about

disciplinary matters and ~~times~~ of student transfers.

128. As a result of these interactions, ~~Mr. Mixon~~ knows that principals frequently do not follow or understand the District's ~~case~~ procedures for suspensions.

129. Mr. Mixon shows excessive and unwarranted ~~defiance~~ of principals when they exclude students with behavior issues, regardless of compliance with district policy. He has repeatedly supported principals' decisions ~~to~~ exclude students with behavior issues from schools when the principals had violated ~~district~~ policy. ~~One~~ instance, Mr. Mixon refused to order a principal to take back a student who ~~had~~ been withdrawn from ~~school~~ during a long-term suspension without the ~~student~~ parent's permission.

130. In the face of this knowledge, Mr. Mixon ~~has~~ had a policy or practice of providing extremely minimal training to school administrators ~~regarding~~ requirements of due process and the District's due process procedures.

131. Prior to Mr. Mixon's appointment, the ~~Director~~ Director of Student Support Services provided training to school ~~administrators~~ regarding due ~~process~~ procedures, and emphasized the

135. Although the procedure requires Assistants to investigate and present recommendations for suspension and the Principals the hearing officer at the school level, for at least some schools the assistants both investigate and serve as hearing officer for suspensions.

136. Since his appointment in 2009, Mr. Mixon is responsible for supervising compliance with the District's discipline policies.

137. In his role as the EDSSS, Mr. Mixon is responsible for supervising student discipline and its application per the Code of Conduct. However, Mr. Mixon does not monitor principals' compliance with the Code of Conduct. Mr. Mixon does not track suspension rates or discipline incidents.

138. Mr. Mixon does not attempt to determine if principals are in compliance with the due process policy. When changes are made to discipline procedures in the Code of Conduct, Mr. Mixon does not make an effort to ensure that the new changes are being adopted by principals in the District.

139. Mr. Mixon has not instructed his staff to report violations of the District's due process policies to him, or to take any action if they learn of such violations.

140. Mr. Mixon does not provide regular training throughout the school year on school discipline due process procedures.

141. Mr. Mixon has become aware of principals who routinely violate the Student Handbook's due process procedures. However, Mr. Mixon does not discipline principals for violations of the Code of Conduct or impose any penalty.

142. Mr. Mixon also receives complaints from parents, other administrators, principals, and the District's disciplined employees. Mr. Mixon frequently writes or calls individuals to

resolve complaints. Despite the numerous complaints regarding discipline employees and their noncompliance with discipline procedures, Miss M has never formally investigated a principal's or school's discipline procedure. Further, Mr. Mixon has never formally investigated any complaints about due process complaints about discipline procedures brought to him by parents.

143. Mr. Mixon has had ample opportunity to identify procedural failings within the District, but has not done so.

4. ~~§ 111-111~~  
~~§ 111-111~~

144. The Board has delegated policymaking authority in the area of supervision to the Superintendent and his professional assistants.

145. In 2008, Dr. Roy L. Nichols became the Superintendent of the Mobile County Public Schools.

146. Dr. Nichols instituted a policy of allowing principals to run schools with little or no guidance from their supervisors. On information and belief, Dr. Nichols repeatedly told Board members not to play an active role in supervision of the schools.

147. Dr. Nichols made the Board aware of his policy and that the leadership team would play a supportive rather than a proactive role in supervising principals.

148. On information and belief, Deputy Superintendent Peek communicated Dr. Nichols's policy repeatedly to members of the Board. The Board knew or should have known that this policy would result in a lack of supervision of compliance with due process policies, but did not direct Dr. Nichols otherwise.

149. As Superintendent, Ms. Baskin carried on the same policy.

5.

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~~EDSS~~  
~~High~~

150. When the EDSSS retired in 2009, Dr. ~~Nichols~~ Mr. Nixon to be the new EDSSS. Prior to that appointment, Mr. Nixon ~~had been~~ principal of Williamson High School in Mobile for nine years.

151. During the first six months of his ~~appointment~~ Mr. Nixon began developing significant proposed changes to the Student Handbook. ~~Mr. Nixon~~ had received input from school administrators that the District's due process ~~was too~~ onerous ~~and~~ developed a revision of the due process procedures ~~to address~~ the principals' concern.

152. Mr. Nixon proposed to remove the requirement ~~that~~ administrators provide a written notice of proposed suspension ~~before~~ the suspension conference. The written notice of proposed suspension advised ~~of the~~ allegations against ~~the~~ child and, set a date for the suspension conference.

153. In December of 2009, Mr. Nixon convened ~~an~~ Advisory Committee of principals and other MCPSS staff to provide feedback

by the student and parent being imposition of a long-term suspension.

157. The proposal Mr. Mixon sent the Board was internally inconsistent and confusing.



do not have an adequate remedy to cure the denial of their constitutional rights.

164. Many students who are long-term suspended receive an equal and adequate education while suspended.

F [REDACTED] - [REDACTED]

1. [REDACTED]

165. In August 2010, M.R. began ninth grade at Blount High School. In February 2011, M.R. arrived late for lunch because Mr. [REDACTED] was removing M.R.'s jacket from a classroom. M.R. had attended M.R.'s prior class.

166. Principal Jerome Woods accused M.R. of [REDACTED] and suspended M.R. for the rest of the semester. Mr. Woods told M.R. not to come back to school for the rest of the school year and warned that, were M.R. to return to school, Mr. Woods would have M.R. arrested for trespassing.

167. That day, Mr. Woods called M.R.'s mother, Mrs. Simmons, and told her that M.R. was suspended from school for the rest of the year. Mr. Woods did not explain why M.R. was suspended. Mr. Woods also told Mrs. Simmons that all alternative schools were full, and that M.R. could not attend any other MCPSS schools. Mr. Woods did not try and schedule a parent-student conference with Mrs. Simmons or inform her of her right to appeal.

168. The next day and over the following days, Mrs. Simmons called Mr. Woods and Assistant Principal Kirven Lang several times, but left messages for them requesting a written notice of M.R.'s suspension. She did not receive a phone call or a written notice of suspension.

169. Mrs. Simmons also contacted MCPSS' Office of [REDACTED] and explained the circumstances of M.R.'s long-term suspension. No one offered to explain the lack of due process M.R. had received or informed her of any way to challenge the suspension.

170. A few months after M.R. was long-term suspended, Mrs. Simmons began receiving calls from Blount saying M.R. was absent from school. Mrs. Simmons wrote a letter to Mr. Woods asking for guidance on how she should proceed if M.R. had been long-term suspended. Mr. Woods did not respond.

171. Before suspending M.R. for the rest of the year, Mr. Woods did not provide M.R. an opportunity to tell his side of the story.

172. Mr. Woods failed to provide Mrs. Simmons notice of the proposed suspension or notice of suspension even after multiple requests.

173. Mr. Woods did not convene a conference with M.R. and Simmons where they could challenge the proposed suspension.

174. Mr. Woods did not tell Mrs. Simmons she could appeal the suspension. Mrs. Simmons did not know she could appeal the suspension.

175. When Mr. Woods suspended M.R. until the end of the school year, he did not create an official record of his actions. The long-term suspension was not recorded in M.R.'s official school discipline history on the district computer system or in M.R.'s MCPSS cumulative file.

176. Mrs. Simmons has not received any notice of suspension to this date.

177. While on long-term suspension, M.R. received automatic zeros and did not receive any makeup work. M.R. received no educational services from MCPSS during the long-term suspension.

178. M.R., who before this had never been held back, had to repeat the ninth grade.

179. M.R. plans to return to MCPSS for the 2012-2013 school year.

## 2. **EH**

180. Plaintiff C.H. was a student at Murphy High School for the 2010-2011 school year.

181. In April of 2011, a teacher sent C.H. to the office because C.H. was wearing a shirt with a

small polo logo.

182. Assistant Principal Patricia Hunter suspended C.H. until the end of the school year.

183. Ms. Hunter did not provide C.H. with notice of proposed suspension.

184. Ms. Hunter failed to convene a parent-student conference to where C.H. and a parent could challenge the proposed suspension.

185. Ms. Hunter did not give the opportunity to explain why C.H. was wearing the shirt or share any mitigating circumstances.

186. Ms. Hunter did not inform C.H. of the right to appeal the suspension. C.H. was unaware of any right to appeal.

187. A few days after the suspension, C.H. still has not received any written notice of the suspension. C.H. went to Murphy with her father to find out if she was allowed to return to school. They found Ms. Hunter in the cafeteria.

188. Ms. Hunter still would not allow C.H. to return to school. Again, Ms. Hunter failed to provide any notice of the suspension.

189. About a week later, C.H. went with her father to the MCPSS Central Office to try to enroll in an alternative school.

190. At the Central Office, C.H. and C.H.'s father met with Kina Greene, who works for the Division of Student Support Services. Ms. Greene informed them that it was too late in the semester to enroll in an alternative school.

191. Ms. Greene did not inform C.H. or C.H.'s father of their right to appeal the suspension.

192. As C.H. was unable to attend any alternative schools, C.H. received no educational services during his long-term suspension.

193. C.H. returned to Murphy High School for the 2011-2012 school year.

194. In April of 2012, Ms. Hunter told C.H. that C.H. had too many tardies.
195. Ms. Hunter then suspended C.H. until the end of the year.
196. Ms. Hunter did not give a written notice of proposed suspension.
197. Ms. Hunter did not convene a parent conference where C.H.'s mother could bring evidence of the reason for the suspension and argue for a reduced penalty.
198. Ms. Hunter did not inform C.H. of his right to appeal this suspension.
199. C.H. did not receive any written notification to this long-term suspension.
200. C.H. received no educational services during this long-term suspension.
201. C.H. plans to return to Murghy School for the 2012-2013 school year.

3. ~~PH~~

202. In August 2010, Plaintiff G.H. started high school at John L. Leflore High School.
203. In February 2011, Assistant Principal Beanner Phillips called G.H. to the office. Ms. Phillips told G.H. that she wanted G.H. out of school. She suspended G.H. for the rest of the semester. The only piece of paper given was a pass to walk home.
204. G.H. does not understand the reason for the suspension.
205. Ms. Phillips did not provide G.H. written notice of the proposed suspension.
206. Ms. Phillips did not convene a conference with G.H. and G.H.'s mother, Ms. Emma Irby, where they could challenge the suspension.
207. Ms. Phillips did not provide G.H. an opportunity to challenge the suspension.
208. Ms. Phillips did not inform G.H. or Ms. Irby they could appeal this suspension. They were unaware that they could.
209. G.H. received no educational services during this suspension. G.H.'s electronic record state he was suspended a total of 112 days.
210. G.H. returned to Leflore in August 2011.



challenge the suspension.

226. After this suspension, G.H. was enrolled in the Twilight Program.

227. About a week after starting Twilight, G.H. was long-term suspended from Twilight.

228. The Twilight teacher told G.H. not to come back or he would be arrested.

229. G.H. is unsure of the reason for the suspension from Twilight. G.H. believes it was because G.H. was wearing earphones.

230. G.H. was not given any written notice of this suspension.

231. School administrators did not give Mrs. Kelly the opportunity for a conference where they could challenge the suspension.

232. School administrators failed to provide the opportunity to hear the charges or explain.

233. Additionally, school administrators did not create an official record of this suspension. This suspension is not listed in official school discipline history.

234. G.H. spent the remainder of spring semester without any educational services.

235. G.H. plans to reenroll in MOHS for the 2012-2013 school year.

#### 4. ■

236. Plaintiff K.S. enrolled as a student at Blount High School for the 2010-2011 school year.

237. In January of 2011, K.S. was suspended for the rest of the year, apparently for being late to class. K.S. was walking to class late after dismissal. At least one other student was walking in the hallway at the same time. Plaintiff Jerome Woods stopped K.S. and the other student, took their identification badges, and told them to leave and not come back to Blount.

238. Mr. Woods did not give K.S. an opportunity to explain before imposing the suspension.

239. A secretary from Blount called K.S.'s mother, Rhonda Stewart, and told her K.S. was

suspended for the rest of the year. The secretary did not explain why.

240. Ms. Stewart called the school repeatedly to Mr. Woods or Mr. Lang about the long-term suspension, but they did not return her calls.

241. Mr. Woods did not give K.S.'s mother a notice of proposed suspension.

242. Mr. Woods did not convene a conference with K.S. and K.S.'s mother where they could challenge the suspension.

243. Mr. Woods did not inform K.S. or K.S.'s mother of their right to challenge the suspension.

244. When Mr. Woods suspended K.S. until the end of the semester, he did not create an official record of his actions. This suspension was not listed in K.S.'s official school discipline history or cumulative file.

245. K.S. attended Blount for the 2011-2012 school year.

246. K.S. plans to re-enroll in the MCPSS for the 2012-2013 school year.

#### 5. D.M.

247. Plaintiff D.M. has been a student at Mattie T. Blough School for the past several years, but has been repeatedly retained during the year. D.M. is a student with a disability.

248. Mr. Woods short-term suspended D.M. multiple times for nonviolent and minor infractions during his years at Blount.

249. On several occasions, school employees have informed D.M.'s mother that Mr. Woods was treating D.M. unfairly. One employee advised D.M.'s mother that Mr. Woods wanted to expel D.M. and added that it was wrong because D.M. is not a "bad kid." Another employee confided that it was wrong how D.M. was treated because D.M.'s behavior improved considerably. This person asked D.M. not to tell anyone of their conversation due to fear of retaliation.

250. D.M. enrolled at Blount for the 2010-2011 school year. In January 2011, D.M. went to the office for a tardy pass. D.M. received a pass which indicated he would receive a detention. Mr. Woods said that D.M. would be suspended in the future. D.M. expressed dismay about this decision, and Mr. Woods responded aggressively.

251. Mr. Woods suspended D.M. for the rest of the semester.

252. Mr. Woods did not give D.M. opportunity to explain.

253. Mr. Woods did not provide proposed notice of suspension.

254. Mr. Woods did not convene a conference with D.M. and D.M.'s mother where they could challenge the suspension.

255. Mr. Woods did not create an official record of this suspension. This suspension is not listed in D.M.'s official school discipline history or cumulative file.

256. D.M. did not receive any educational services during his suspension.

257. Unable to attend school, D.M. decided to work, but was told D.M. needed documents from his school in order to obtain a Georgia identification card. D.M. went to Blount and asked for the paperwork needed to get a Georgia ID. D.M. was given a Georgia paper to sign, and did so.

258. When D.M. returned home, D.M.'s mother looked at the paperwork and saw that D.M. had actually signed documents to withdraw from school. D.M. did not know what the papers were.

259. D.M.'s mother was very upset. She called Mr. Woods and eventually spoke to Principal Woods. She told Mr. Woods that she should not have allowed D.M. to sign the papers.

650.



6. **BA**

261. In August 2010, S.A. enrolled as a student at Blount High School. About a month after school began, S.A. left gym class and proceeded to the next class. Before leaving the gym, S.A. changed into the school uniform but forgot to tuck in S.A.'s shirt.

262. Principal Jerome Woods noticed S.A.'s shirt sticking out rather than tucked in. He instructed S.A. to tuck in his shirt or asking why it was out. Woods ordered S.A. to the main office.

263. Once in the office, Mr. Woods gave S.A. a stack of papers that included a withdrawal slip.

264. S.A. was confused. Neither S.A. nor his mother, Michelle Manassa, had asked that S.A. be withdrawn.

265. Mr. Woods told S.A. to go home and never come back or he would be trespassing. When S.A. came home, S.A. told his mother S.A. had been kicked out of school. She was shocked. Soon thereafter S.A.'s mother went to Blount to inquire why S.A. was no longer allowed to attend school.

266. S.A.'s mother spoke with Mr. Woods to find out whether that he did not think school was the place for S.A. Michelle Manassa, S.A.'s mother, asked Woods if S.A. could return to Blount. Woods said no.

267. Mr. Woods failed to provide S.A. an opportunity to explain.

268. Mr. Woods did not provide a proposed long-term suspension.

269. Woods did not convene a conference with S.A.'s mother, Michelle Manassa, where they could challenge the suspension.

270. S.A. returned to Blount for the 2011-2012 school year.

271. S.A. plans to re-enroll in the MCPSS for the 2012-2013 school year.

7. **BC**



**official record of his actions. This suspension is**

they were suspended for more than ten consecutive school days without proper notice and hearing as a result of the custom of violating process requirements in MCPSS and the Defendant Board's policies and actions.

292. Plaintiffs will fairly and adequately protect represent the interests of the Class. Plaintiffs' interests are consistent with, and not antagonistic to, those of the Class.

293. Plaintiffs are represented by counsel who are experienced and competent in the prosecution of class action and have particular experience with class action in the educational reform and child advocacy context.

V ER

(f)

~~XXXX~~

Plaintiffs hereby incorporate the other paragraphs of this Complaint as if fully set forth herein.

By the Board and its policymakers' deliberate indifference to the existence of a widespread custom among the school administrators in the District of imposing long-term suspensions of more than ten consecutive days without notice and hearing, the Board of School Commissioners of Mobile County has violated and continues to violate the Plaintiffs' rights to procedural due process under the Fourteenth Amendment to the United States Constitution.

Plaintiffs seek relief pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the United States Constitution.

(g)

~~XXXX~~

~~XXXX~~

Plaintiffs hereby incorporate ~~the~~ paragraphs of this Complaint as if fully set forth herein.

By the Board and its policymakers' implementation of a policy of failing to adequately and supervise school administrators on compliance with ~~imposing~~ long-term suspensions of more than ten consecutive ~~days~~ ~~in~~ ~~the~~ ~~face~~ of their knowledge of frequent noncompliance with the requirements of ~~the~~ Board of School Commissioners of Mobile County has violated and continues to violate the Plaintiffs' rights to procedural due process under the Fourteenth Amendment to the United States Constitution.

By allowing school administrators who ~~have~~ ~~already~~ ~~violated~~ ~~and~~ ~~thus~~ ~~deprived~~ procedural due process rights to remain in their positions, ~~fail~~ ~~to~~ ~~require~~ additional training or supervision, and failing to take adequate ~~and~~ ~~effective~~ action, the Defendant ~~and~~ ~~its~~ ~~policymakers~~ have implemented a policy of allowing school administrators to violate procedural due process requirements.

Plaintiffs seek relief pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the United States Constitution.

~~¶~~

~~¶~~

Plaintiffs hereby incorporate ~~the~~ paragraphs of this Complaint as if fully set forth herein.

The 2010-2011 Student Handbook and ~~Code of~~ ~~Conduct~~ authorized the imposition of suspensions of more than ten consecutive ~~days~~ ~~with~~ ~~but~~ ~~notice~~ ~~hearing~~. This policy of the Board violated the Plaintiffs' Fourteenth ~~Amendment~~ ~~rights~~ to due process. Plaintiffs are at risk of future injury from ~~policy~~ if the ~~policy~~ is reinstated.

Plaintiffs seek relief pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color

state law, of rights secured by the United States Constitution.

**V R**

WHEREFORE, Plaintiffs pray that Honorable Court grant the following relief:

1. Certify a class consisting of all ~~current~~ MCPSS students who have been or may be suspended for more than ten consecuti



**Levi Giovanetto (admitted *ac vice*)**  
**levi.giovanetto@wilmerhale.com**  
**Wilmer Cutler Pickering Hale and Dorr LLP**  
**1875 Pennsylvania Avenue, NW**  
**Washington, DC 20006**  
**Tel: (202) 663-3000**  
**Fax: (202) 663-6000**

**Marion D. Chartoff (CHARM4473)**  
**Marion.chartoff@splcenter.org**  
**Jadine C. Johnson (JOHNJ7253)**  
**jadine.johnson@splcenter.org**  
**Southern Poverty Law Center**  
**400 Washington Ave.**  
**Montgomery, AL 36104**  
**Tel: (334) 956-8200**  
**Fax: (334) 956-8481**



~~\_\_\_\_\_~~

I hereby certify that on this, the ~~9th~~ **9th** August, 2012, I ~~electronically~~ **electronically** filed the ~~foregoing~~ *amended Complaint* with the Clerk of Court using the CM/ECF system which will send notification of such filing