

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

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.)	

AMENDED COMPLAINT

I. INTRODUCTION

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 other MCPSS students to challenge the violation of their Fourteenth Amendment right to receive notice and a hearing before being punished with long-term suspensions. The named Plaintiffs, all students in the Mobile County Public Schools, have been long-term suspended without proper notice or a hearing for minor infractions. One was long-term suspended for having his shirt untucked, another for not carrying

his identification badge. When another student arrived late to lunch, he was suspended for the remainder of the semester and never given 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 notice and a fair hearing before punishing them with long-term suspensions. By creating a widespread custom of suspending students without notice and a hearing, the Defendant Board has deprived the named Plaintiffs and many other students of these important constitutional rights. These violations impact not only the students, but also their families and communities.

2. This complaint challenges the custom and practice of many school administrators in the MCPSS of long-term suspending students without 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 practices the Board and its high-level officials have implemented have caused this to occur.

3. The Defendant Board's actions have caused the Plaintiffs and countless other students to suffer academically and emotionally. After being suspended long-term, many students have been forced to repeat classes or whole grades, and many 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, a declaration that the disciplinary procedures for suspensions of more than ten school days set forth in the 2010-2011 MCPSS Student Handbook and Code of Conduct violate the procedural due process guarantees of the Fourteenth

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

II. JURISDICTION AND VENUE

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) because a substantial part of the events or omissions giving rise to the claims occurred within Mobile County, Alabama.

III. PARTIES

A. Plaintiffs

7. Plaintiff M.R. is a student residing in Alabama. M.R. plans to reenroll in Mobile County Public Schools later this fall. During the 2010-2011 school year, M.R. attended Mattie T. Blount High School as a ninth grader. In February 2011, M.R. was suspended for the rest of the school year without receiving notice and a conference. M.R. re-enrolled at Blount for the 2011-2012 school year. M.R. brings this action through M.R.'s adoptive mother and great-grandmother, Mary Simmons.

8. Plaintiff C.H. is a student residing in Mobile, Alabama. C.H. enrolled at Murphy High School for the 2010-2011 and attended school there until being long-term suspended without receiving notice and a conference in April 2011, apparently for a uniform violation. Plaintiff C.H. re-enrolled at Murphy for the 2011-2012 school year. In April 2012, C.H. was long-term

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 a 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 a 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 rest of the semester for not having an official

identification badge. J.C. brings 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 there 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. E.M. brings this action through next friend Michelle Manassa.

B. Defendant

15. Defendant Board of School Commissioners of Mobile County (the “Board”) is a corporation that was established in 1826 by an Act of the Alabama Legislature. It can sue and be sued. It is a state actor under 42 U.S.C. § 1983. In all of the acts described in this complaint, the Board and its employees have been “persons” acting under color of state law. 42 U.S.C. § 1983.

IV. Statement of Facts

A. Overview

16. The most serious type of suspension available to principals in the Mobile County Public Schools is a long-term suspension, which is defined in district policy as a suspension ranging from 11 days to the end of the semester. The only more severe punishment available is expulsion from the school district.

17. The District’s electronic records show that at least 1,743 students were suspended long-term at least once in the academic years 2009-2010, 2010-2011, or 2011-2012. During the 2011-2012 school year alone, at least 427 students were suspended long-term at least once.

18. Lengthy suspensions have severe negative impacts on students. Suspensions decrease learning time in the classroom, often leave students without adult supervision, and frequently alienate students from school. In addition, on information and belief, long-term suspensions negatively impact the reputations of the students.

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

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

B. Structure of the District

1. The Board of School Commissioners

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

22. The Board of School Commissioners of Mobile County has a duty to “determine and establish a written educational policy for the board of education and its employees and . . . [to] prescribe rules and regulations for the conduct and management of the schools.” Ala. Code § 16-1-30 (1975).

23. The Board elects a Superintendent to supervise and manage the District. The Board has the duty to exercise control and supervision of the public school system of the county through the Superintendent and the Superintendent’s professional assistants. *See* Act No. 242, Ala. Legis. (1875); Ala. Code § 16-8-9 (1975).

24. The Board has a duty to “consult and advise through its executive officer and his professional assistants with school trustees, principals, teachers and interested citizens,” and has a duty to “seek in every way to promote the interest of the schools under its jurisdiction.” Ala. Code § 16-8-9 (1975).

25. The Board has a duty to “develop a written policy on student discipline and behavior and

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

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

27. The Board has a duty to ensure that copies of the student discipline and behavior policy are “given to all teachers, staff, parents and students.” Ala. Code § 16-28A-3 (1975); *see also* Ala. Code § 16-28-12 (1975) (requiring Superintendent to provide at commencement of the school year a copy of the written policy on school behavior to each parent, guardian, or other person having control of a student).

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

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

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

2. The Superintendent

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

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

33. The Superintendent has delegated managerial 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 supervisory authority over school administrators with regard to compliance with school discipline and due process policies, and has the authority to place disciplinary notices in their personnel files.

36. The EDSSS regularly fields requests for advice from principals with regard to disciplinary policy and procedure and discipline management and 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 policies in the District. He reviews the policies, develops proposed changes, obtains MCPSS staff opinions about his proposed changes, and decides what proposed changes are sent to the Board.

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

3. The Executive Director of Student Support Services is a policymaker for the School Board in the area of school discipline policy.

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

federal and state law. The Board has delegated its policymaking authority in the area of student disciplinary procedure and practice to the Executive Director of Student Support Services.

41. The EDSSS convenes an Advisory Committee of school staff once a year to obtain input on any proposed changes to the Handbook.

42. The EDSSS selects the membership of the Advisory Committee, creates the agenda for the meeting, and facilitates the meeting.

43. The Committee is composed of a group of school administrators and other district personnel selected by the EDSSS.

44. The role of the Committee is to give input to the EDSSS with regard to proposed changes to the Student Handbook.

45. The EDSSS makes the final decision as to what changes to include in the Student Handbook. During the meeting, the attendees voice their opinions on the proposals presented by the EDSSS. They do not vote whether to approve the proposals. The EDSSS makes the final decision as to whether to include the proposed changes. Consensus of the Advisory Committee is not required for a change to be made.

46. After changes are made, the EDSSS sends the amended Student Handbook to the Superintendent, who forwards it to the Board of School Commissioners for approval. The Superintendent's role is to formally present the amendments at the Board meeting. The Superintendent defers to the EDSSS on the contents of the Student Handbook and Code of Conduct.

47. The Board does not consider the contents of the Student Handbook and Code of Conduct to be Board policy. Accordingly, the Board routinely approves the Student Handbook and Code of Conduct as proposed. In at least the last three years, the Board has not made any alterations to

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

C. Procedures for Long-Term Suspension.

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 in the MCPSS, including 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 suspension for a range of infractions. Many of these infractions are non-criminal and non-violent in nature.

52. The Handbook sets forth various infractions and groups 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 acts of willful disobedience. Group C, D, and E cover various types of misconduct that could constitute a criminal offense.

53. The Handbook specifically authorizes long-term suspensions for Group B, C, D, and E infractions. In addition, school administrators frequently impose long-term suspension for repeated dress code violations, tardies, 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 in a section of the Student Handbook entitled “Specific Procedures for Formal Action.”

55. Prior to the 2010-2011 school year, MCPSS's Handbook specified a procedure to provide due process before school administrators could order a long-term suspension. The procedure required that the student receive oral notice of a proposed suspension and that the parent/guardian receive advance written notice of a proposed suspension. It also required that the principal hold a due process hearing with the student and parent/guardian, at which the student could present evidence to defend against the charge and the parent could advocate for the child. The parent/guardian could also bring an attorney to the hearing. The principal could impose a long-term suspension only after that hearing, and had to provide written notice of the suspension decision thereafter.

56. The Handbook was revised significantly for the 2010-2011 school year. The 2010-2011 Handbook did not require principals to provide notice of a proposed suspension to the parent/guardian, and did not require the principal to provide a due process hearing attended by the student and parent before the imposition of a long-term suspension.

57. Although the 2010-2011 Handbook required a "parent/guardian conference," the policy specifically allowed principals to hold this meeting *after* the student has already served the long-term suspension. The policy also reduced the prior explanation of what must occur at the conference.

58. On May 12, 2011, *Plaintiffs* filed the original Complaint in this suit, challenging the 2010-11 Handbook and the widespread practice in the District's schools of suspending students without proper due process. *Plaintiffs* also challenged the practices of administrators at two schools who long-term suspended students without even following the challenged policy.

59. The Handbook was revised for the 2011-2012 school year to once again require a written notice of proposed suspension for long-term suspensions and a parent/guardian conference

before imposition of a long-term suspension. The 2011-2012 Handbook requires written notice of proposed suspensions be provided to the parent/guardian within five days of the date of the student's infraction and at least seven days before the scheduled due process hearing, that the notice inform the parent/guardian of the date and time of the due process hearing, and that the hearing be scheduled within five school days following issuance of the notice.

60. The 2012-2013 Student Handbook retains these provisions.

61. In the Mobile County Public Schools, from at least the 2009-2010 school year to the present, school administrators have frequently imposed long-term suspensions in violation of the procedural requirements of the relevant year's Student Handbook.

62. Students from schools across the District report having been long-term suspended without any notice or a hearing, both before and after the 2010-2011 school year.

63. Administrators followed similar practices in imposing long-term suspensions from the 2010-2011 school year to the 2011-2012 school year.

D. The Handbook Does not Provide Adequate Notice of its Provisions.

64. The Student Handbook has become significantly longer since 2004. The 2004-2005 Student Handbook was 62 pages long and contained 13 different sections. The 2007-2008 Student Handbook was 73 pages long and contained 18 different sections. The 2010-2011 Student Handbook was 97 pages long and had 20 different sections. The 2011-2012 Student Handbook was 107 pages long and had 20 different sections.

65. The 2011-12 Handbook and 2012-13 Handbooks are written at a reading grade equivalency level of a college graduate or higher.

66. Letters purporting to provide notice of proposed and imposed suspensions are written at a reading grade equivalency level of a high school graduate or higher.

67. On information and belief, many parents do not receive a copy of the Student Handbook

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 informed of the right to a due process hearing when their children are long-term suspended.

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

71. The Board and EDSSS are also on notice that many 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 Board has not adopted procedures for ensuring uniformity in the application of the categories of infractions to student conduct.

E. Custom in the District of Imposing Long-Term Suspensions without Notice and a Hearing.

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

75. Administrators frequently suspend students without providing the required notice of the proposed suspension and a parent/student conference. Electronic 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 without first providing a hearing where the

parent and child can together review and challenge the evidence against the child, respond to the accusation, marshal evidence against it, and argue and present evidence against the imposition of a long-term suspension. Electronic records provided by the school 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 in Mobile. 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 dozens of administrators from dozens of schools have imposed long-term suspensions for which the records suggest either no notice was provided, no hearing was held, or both.

79. Students have been suspended long-term for minor infractions, including minor dress code violations such as wearing the wrong colored belt, not having a belt, or wearing the wrong colored shoes.

80. Students have been told by school administrators not 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 seriously damage a student's standing with their fellow pupils and teachers, as well as interfere with later 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 minimal procedural due process protections to students facing long-term suspensions.

85. The Board has had ample opportunity to remedy the procedural due process failings of the MCPSS disciplinary system, but has not affirmatively acted to prevent or cure such deprivations.

1. The Board of School Commissioners of Mobile County and its high-level officials have notice of this unconstitutional custom and have acted with deliberate indifference to the probability of future harm to students as a result of it.

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

87. In 2010, one or more high-level MCPSS officials learned 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 official launched an internal investigation into the incident.¹

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

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

¹ The names of the relevant individuals are omitted in the interest of confidentiality of personnel information.

department informed the principal's direct 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 as 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 to receive any training targeted to 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 police station during those suspensions.

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

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

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

2. Filing of the M.R. Lawsuit

97. The Board, Superintendent, and other senior leadership 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 *M.R., et al. v. Board of School Commissioners of Mobile County, et al.*, on May 12, 2011.

98. The complaint filed in this lawsuit notified the Board not only that the District's official due process policy, contained in the 2010-2011 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-term suspensions on students without providing even the reduced due process required by the District's challenged policy.

99. After learning of the lawsuit, neither the Assistant Superintendents who conduct the formal evaluation of the principals, nor the Executive Director of Student Support Services, who supervises the principals with regard to due process and discipline, investigated the allegations.
100. On information and belief, they were not told to investigate the allegations of the lawsuit or the schools' general compliance with disciplinary due process procedures.
101. These high-level administrators are unaware of anyone else in the District conducting such an investigation or monitoring compliance with due process in these schools.
102. Neither the Board nor anyone else ordered the EDSSS and Assistant Superintendents to increase supervision of the named administrators in response to the lawsuit.
103. Nor did the Board or anyone else require that the EDSSS and Assistant Superintendents provide any extra training in response to the lawsuit. The EDSSS and Assistant Superintendents did not provide extra training or require the administrators to obtain any extra training.
104. By not taking any steps to investigate, confirm or address the allegations against the principals named in the complaint, the Board, Superintendent, and Executive Director of Student Support Services acted with deliberate indifference to a significant risk of harm to additional students at Blount High School and Scarborough Middle School.
105. In late 2011 and in May of 2012, Superintendent Martha Peek and Board President Levon Manzie were informed of additional ongoing due process violations at another middle school.
106. In December 2011, a high level district official met with then-Deputy Superintendent Peek to discuss the many complaints she had received from parents about a middle school principal.
107. The official had received complaints every year for several years alleging that the principal had suspended students without advance notice of a suspension conference, a

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 thought that the contract should not be renewed.

109. At that time, Ms. Peek told the official that she had spoken with Board President Manzie about the matter and that Manzie had told Peek that he and another Board member would not support termination, and that it would not 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, the official and Peek, who had been appointed Superintendent in the interim, received additional complaints against the same 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 the Board 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 supervisor has been assigned to that school.

116. The Board's actions have shown that they will not 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 notice or a conference, due to requests for assistance received from members of the community.

3. The Executive Director of Student Support Services fails to correct school administrators who violate due process procedures in the imposition of long-term suspensions, despite extensive knowledge of these violations and a duty to correct them.

118. Executive Director of Student Support Services Terrence Mixon is aware that school administrators frequently violate MCPSS due process 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 information 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, on information and belief, Mr. 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 information indicating that a school administrator did not provide a notice of proposed conference or a conference at which the parent and student could challenge the proposed suspension.

124. Mr. Mixon has repeatedly received information that school administrators exclude students with behavior problems from school 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 the 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 revocations of student transfers.

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

129. Mr. Mixon shows excessive and unwarranted deference to principals when they exclude students with behavior issues, regardless of their 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. In one instance, Mr. Mixon refused to order a principal to take back a student who the principal had withdrawn from school during a long-term suspension without the student's or parent's permission.

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

131. Prior to Mr. Mixon's appointment, the Executive Director of Student Support Services provided training to school administrators regarding due process procedures, and emphasized the importance of complying with these procedures in those trainings.

132. Mr. Mixon has changed the training policy and practice of the District. Administrators now receive little or no training on compliance with due process procedures. At least some school administrators have received no training in due process procedures in the last three years.

133. At the annual principals' meeting at the beginning of each school year, Mr. Mixon has provided approximately 20 minutes of training per school year to the principals on the entire Handbook, of which the due process procedures comprise one of 20 discrete parts.

134. As a result of Mr. Mixon's inadequate training of principals and assistant principals, principals and assistant principals misunderstand the District's due process procedures.

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

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

137. In his role as the EDSSS, Mr. Mixon is solely 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 also does not track suspension rates or discipline incidents.

138. Mr. Mixon does not attempt to determine whether principals are in compliance with the due process policy. When changes are made to the 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 when 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 about other administrators, principals, and the District's discipline procedures. Mr. Mixon frequently meets with or calls individuals to

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

143. Mr. Mixon has had ample opportunity to remedy the procedural failings within the District, but has not done so or attempted to do so.

4. Through its Superintendents, the Board has adopted a policy and practice of not supervising due process compliance.

144. The Board has delegated policymaking authority in the area of supervision to the Superintendent and his/her 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 their 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 his leadership team would play a supportive rather than a corrective role in supervising principals.

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

149. As Superintendent, Ms. Peek has carried on the same policy.

5. As the Executive Director of Student Support Services, Mr. Mixon has implemented a policy of reducing due process protections for students in the District.

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

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

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

153. In December of 2009, Mr. Mixon convened an Advisory Committee of principals and other MCPSS staff to provide feedback on proposed changes to the Handbook.

154. After the meeting, Mr. Mixon revised the due process procedures in the Handbook to remove the Proposed Notice of Suspension requirement, to state that a conference with the student and the parent could be held either on the day of the suspension or on the day the student returned from the suspension, and to eliminate detailed discussion of what must occur at the conference.

155. Mr. Mixon sent the revision to the Superintendent, who forwarded it to the Board for adoption. In June 2010, the Board adopted the Handbook as revised by Mr. Mixon.

156. The June 2010 Student Handbook did not require principals to provide notice of a proposed suspension to the parent/guardian, and did not require a due process hearing attended

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

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

Neither the Superintendent nor the Board corrected the errors. Because the Board deferred to Mr. Mixon, their review was extremely cursory.

6. Plaintiffs were injured by virtue of the unconstitutional acts pursuant to the custom in the District, and that custom was the moving force behind the unconstitutional acts.

158. The Board and EDSSS Mixon have acted with deliberate indifference to the custom among school administrators of frequently suspending students for more than ten consecutive school days without notice of the proposed suspension and a parent-student conference.

159. Due to the policy and practice of failing to train administrators on the contents of the District's due process policy and the law of procedural due process, some administrators frequently violate the policy and law and do not understand that they are doing so.

160. Due to the policy and practice of failing to monitor and supervise administrators' compliance with the District's procedural due process policies and due process law, repeated violations are uncorrected. This communicates to administrators who knowingly violate the policies that there will be no consequences for such violations, or even that such violations are encouraged.

161. The Board's decision to protect principals who violate procedural due process emboldens these principals to continue violating the due process rights of students.

162. These policies, practices, failures to perform duties, and decisions of the Board and the EDSSS have created a custom of widespread noncompliance with the Board-adopted due process policies and procedures, and the violation of students' due process rights.

163. This custom was the moving force behind the unconstitutional acts of the school administrators who suspended the Plaintiffs without notice and a conference. Further, students

do not have an adequate remedy sufficient to cure the procedural deprivation of their constitutional rights.

164. Many students who are long-term suspended do not receive an equal and adequate education while suspended.

F. Plaintiffs Have Been Suspended Long-Term without Notice and a Hearing.

1. Plaintiff M.R.

165. In August 2010, M.R. began ninth grade at Mattie T. Blount High School. In February 2011, M.R. arrived late for lunch because M.R. was retrieving M.R.'s jacket from a classroom. M.R. had attended M.R.'s prior class.

166. Principal Jerome Woods accused M.R. of skipping class 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 campus, Mr. Woods would have M.R. arrested for trespassing.

167. That day, Mr. Woods called M.R.'s mother, Mary Simmons, and told her that M.R. was suspended from school for the rest of the school year. Mr. Woods did not explain why M.R. was suspended. Mr. Woods also told Mrs. Simmons that all the alternative schools were full, and that M.R. could not attend any other MCPSS school. 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 week, Mrs. Simmons called Mr. Woods and Assistant Principal Kirven Lang several times and left messages for them requesting a written notice of M.R.'s suspension. She did not receive a phone call or a notice of suspension.

169. Mrs. Simmons also contacted MCPSS' Central Office and explained the circumstances of M.R.'s long-term suspension. No one offered to address the lack of due process M.R. had received or informed her of any right 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 given that 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 with a 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 Mrs. Simmons where they could challenge the proposed suspension.

174. Mr. Woods did not tell Mrs. Simmons that she could appeal this 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 any official record of his actions. The long-term suspension is not recorded in M.R.'s official school discipline history on the district's computer system or in M.R.'s MCPSS cumulative file.

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

177. While on long-term suspension, M.R. received automatic zeros and did not received 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 in school, had to repeat the ninth grade.

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

2. Plaintiff C.H.

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 a 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 C.H. 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 had not received any written notice of the suspension. C.H. went to Murphy with her mother 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. Again, Ms. Hunter failed to provide any notice of the suspension.

189. About a week later, C.H. went with C.H.'s 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 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 this 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 C.H. a written notice of proposed suspension.
197. Ms. Hunter did not convene a parent conference where C.H. and C.H.'s mother could bring evidence of the reason for the tardies and argue for a reduced penalty.
198. Ms. Hunter did not inform C.H. of her right to appeal this suspension.
199. C.H. did not receive any written notice pertaining to this long-term suspension.
200. C.H. received no educational services during this long-term suspension.
201. C.H. plans to return to Murphy High School for the 2012-2013 school year.

3. Plaintiff G.H.

202. In August 2010, Plaintiff G.H. started ninth grade 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 her school. She suspended G.H. for the rest of the semester. The only piece of paper G.H. received 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 that she could appeal this suspension. They were unaware that they could.
209. G.H. received no educational services during this suspension. G.H.'s electronic records state he was suspended for a total of 112 days.
210. G.H. returned to Leflore in August 2011.

211. In September 2011, G.H. was accused of stealing a watch. One of G.H.'s classmates sold the watch to G.H. and then accused G.H. of stealing it.
212. G.H. heard this classmate tell teachers three different stories about how G.H. gained possession of the watch.
213. Assistant Principal Phillips did not provide G.H. an opportunity to explain what had happened.
214. Ms. Phillips did not provide G.H. with a notice of proposed suspension.
215. Ms. Phillips did not convene a conference with G.H. and Ms. Irby where they could challenge the suspension.
216. Ms. Phillips did not inform G.H. or G.H.'s mother that she could appeal the suspension.
217. In January 2012, G.H. returned to regular day classes at Leflore.
218. In February 2012, Principal Alvin Dailey suspended G.H. for wearing cargo pants. G.H. is indigent, and the cargo pants were G.H.'s only clean clothes.
219. Mr. Dailey suspended G.H. for the remainder of the semester.
220. Mr. Dailey gave G.H. a single sheet of paper. The paper said "Discipline Report" at the top and was signed at the bottom.
221. The report described a single occurrence—according to the report, G.H. was using profanity. The report did not state anything about cargo pants.
222. The report did not state that G.H. was being recommended for a long-term suspension.
223. The report did not list a date or time for a conference with G.H. and G.H.'s mother.
224. The report did not inform G.H. or G.H.'s mother of their right to challenge the suspension.
225. Mr. Dailey did not convene a conference with Ms. Irby and G.H. where they could

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 Ms. Irby and G.H. the opportunity for a conference where they could challenge the suspension.
232. School administrators failed to provide G.H. 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 G.H.'s official school discipline history.
234. G.H. spent the remainder of spring semester without any educational services.
235. G.H. plans to reenroll in the MCPSS for the 2012-2013 school year.

4. Plaintiff K.S.

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 from school for the rest of the year, apparently for being late to class. K.S. was walking to class late after a fire drill. At least one other student was walking in the hallway at the same time. Principal 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 talk 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. or 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 ability 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 is 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. Plaintiff D.M.

247. Plaintiff D.M. has been a student at Mattie T. Blount High School for the past several years, but has been repeatedly retained in the ninth grade. 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 repeatedly 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 confided that it was wrong how D.M. was being treated because D.M.'s behavior improved considerably. This person asked D.M.'s mother 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 that he would receive a detention. Mr. Woods said that he would be suspended instead. 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. an opportunity to explain.
253. Mr. Woods did not provide a 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 this suspension.
257. Unable to attend school, D.M. decided to look for work, but was told D.M. needed documents from his school in order to obtain an identification card. D.M. went to Blount and asked for the paperwork needed to get an identification card. D.M. was given a 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 the school and eventually spoke to Principal Woods. She told Woods they should not have allowed D.M. to withdraw and that D.M. did not know of the withdrawal. Mr. Woods said there was nothing he could do.
260. D.M. plans to re-enroll in MCPSS for the 2012-2013 school year.

6. Plaintiff S.A.

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 towards 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 untucked shirt. Rather than instructing S.A. to tuck in his shirt or asking why it was untucked, 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 S.A.'s 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, who informed her 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 notice of proposed long-term suspension.

269. Woods did not convene a conference with S.A. and 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. Plaintiff J.C.

272. In August 2010, J.C. enrolled at Blount High School for the 2010-2011 school year. J.C. is a student with a disability.

273. About three weeks into the school year, Principal Jerome Woods noticed J.C. walking in the hallway without an identification (“ID”) badge. Mr. Woods ordered J.C. to leave and not to come back to school.

274. J.C.’s mother, Ms. Alicia Campbell, had ordered an ID badge, but it was not ready.

275. Mr. Woods did not provide J.C. an opportunity to defend himself before long-term suspending him.

276. Mr. Woods did not provide a written notice of J.C.’s suspension.

277. Mr. Woods did not convene a conference with J.C. and J.C.’s mother where they could challenge the suspension.

278. When Mr. Woods suspended J.C. until the end of the semester, he did not create an official record of his actions. This suspension is not listed in J.C.’s official school discipline history or cumulative file.

279. J.C. plans to reenroll in the MCPSS for the 2012-2012 school year.

8. Plaintiff E.M.

280. In August 2010, E.M. enrolled as a student at C.L. Scarborough Middle School.

281. In early April 2011, shortly after E.M.’s thirteenth birthday, Principal Jason Laffitte long-term suspended E.M until the end of the school year.

282. Mr. Laffitte did not give E.M. an opportunity to explain.

283. Mr. Laffitte failed to provide advance notice of E.M.’s suspension.

284. Mr. Laffitte did not convene a conference with E.M. and E.M.’s mother, Michelle Manassa where they could challenge the suspension.

285. When Mr. Laffitte suspended E.M. until the end of the semester, he failed to create an

official record of his actions. This suspension is not listed in E.M.'s official discipline history or MCPSS cumulative file.

286. E.M. returned to Scarborough for the 2011-2012 school year. E.M. was suspended several times and was threatened with long-term suspension at least once.

287. E.M. plans to re-enroll in the MCPSS for the 2012-2013 school year.

V. CLASS ALLEGATIONS

288. Plaintiffs bring this action on behalf of themselves and, under Rule 23 of the Federal Rules of Civil Procedure, as representatives of a Class defined as follows:

All current and future MCPSS students who have been or may be suspended for more than ten consecutive school days (1) without being provided a written notice of proposed suspension ("notice"), (2) without being provided a due process hearing attended by both the student and his/her parent/guardian ("hearing"), or (3) without being provided both notice and hearing.

289. Members of the Class are so numerous that joinder is impracticable. The Class is easily identifiable from information and records in possession of the Defendant Board, and the Class will only increase over time.

290. Plaintiffs and members of the Class have common questions of law and fact because the Defendant Board has acted on grounds generally applicable to the entire class. Common questions include:

- a. Whether the disciplinary procedures set forth in the MCPSS Student Handbook and Code of Conduct, as approved by the Board in June 2010, violate the Fourteenth Amendment; and
- b. Whether minimum due process as guaranteed by the Fourteenth Amendment requires school administrators to provide a written notice of proposed suspension to the parent/guardian and hold a due process hearing attended by the student and parent/guardian before imposing a long-term suspension.

291. Plaintiffs' claims are typical of the claims of the members of the Class. Plaintiffs and all members of the Class were damaged by the same wrongful conduct by the Defendant Board, *i.e.*,

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

292. Plaintiffs will fairly and adequately protect and represent the interests of the Class. Plaintiffs' interests are coincident 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.

VI. CLAIMS FOR RELIEF

Count One

Violation of the Fourteenth Amendment Right to Due Process

Plaintiffs hereby incorporate all 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 of the District of imposing long-term suspensions of more than ten consecutive school 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.

Count Two

Violation of the Fourteenth Amendment Right to Due Process Through Failure to Train and Supervise

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

By the Board and its policymakers' implementation of a policy of failing to adequately train and supervise school administrators on compliance with due process in imposing long-term suspensions of more than ten consecutive days, in spite of their knowledge of frequent noncompliance with the requirements of due process, 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 repeatedly violated students' procedural due process rights to remain in their positions, failing to require additional training or supervision, and failing to take adequate corrective action, the Defendant Board 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.

Count Three

Violation of the Fourteenth Amendment Right to Due Process

Plaintiffs hereby incorporate all other 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 school days without notice and hearing. This policy of the Board violated the Plaintiffs' Fourteenth Amendment rights to due process. Plaintiffs are at risk of future injury from this policy if the policy is reinstated.

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.

VII. PRAYER FOR RELIEF

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

1. Certify a class consisting of all current and future MCPSS students who have been or may be suspended for more than ten consecutive school days (1) without being provided a written notice of proposed suspension (“notice”), (2) without being provided a due process hearing attended by both the student and his/her parent/guardian (“hearing”), or (3) without being provided both notice and hearing;
2. Declare that the disciplinary procedures for suspensions of more than ten days (“long-term suspensions”) set forth in the MCPSS Student Handbook and Code of Conduct, as approved by the Board of School Commissioners of Mobile County in June 2010, violate the procedural due process guarantees of the Fourteenth Amendment to the United States Constitution;
3. Grant equitable relief requiring the Defendant Board, its agents, its employees, and all persons acting in concert with it to, before the imposition of a long-term suspension, (1) provide written notice to the student and his/her parent/guardian, and (2) hold a hearing with the student and parent/guardian at which the student and parent/guardian may present the student’s side of the story, including evidence in support of the student’s case, and challenge the evidence against the student and the proposed punishment;
4. Grant equitable relief requiring the Defendant Board to re-draft the due process procedures in the Student Handbook and Code of Conduct to use plain language that is readily understandable at an appropriate grade-level equivalence;
5. Grant equitable relief requiring the Defendant Board to, at the beginning of each academic year and promptly upon a student’s enrollment in any school in the MCPSS at any other time, provide a copy of the Student Handbook and Code of Conduct to all

parents/guardians of students in the MCPSS by mail or other feasible means that ensure the parent's or guardian's receipt;

6. Grant equitable relief requiring the Defendant Board to ensure that the Executive Director of MCPSS Student Support Services monitors and supervises compliance with the due process requirements in the Student Handbook and Code of Conduct;
7. Grant equitable relief requiring the Defendant Board to require school administrators to accurately record all disciplinary incidents, including long-term suspensions, and to monitor disciplinary records for compliance with such requirement;
8. Grant equitable relief requiring the Defendant Board to expunge long-term suspensions imposed in violation of due process as guaranteed by the Fourteenth Amendment from the records of the named Plaintiffs;
9. Award Plaintiffs reasonable costs and attorneys' fees; and
10. Grant any other relief this Honorable Court may deem just and proper.

Respectfully submitted this 9th day of August, 2012.

/s/ Sumit Mallick

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CERTIFICATE OF SERVICE

I hereby certify that on this, the 9th day of August, 2012, I electronically filed the foregoing *Amended Complaint* with the Clerk of Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ Sumit Mallick

Sumit Mallick