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

M.R., by and through his next friend, Mary Simmons; K.S., by and through his next friend, Rhonda Stewart; D.M., by and through his next friend, Pinkie Manassa; S.A., by and through his next friend, Michelle Manassa; J.C., by and through his next friend, Alicia Campbell; and E.M., by and through his next friend, Michelle Manassa, on behalf of themselves and all similarly situated individuals, Plaintiffs, v. BOARD OF SCHOOL COMMISSIONERS OF MOBILE COUNTY; JEROME WOODS, in his official capacity as Principal of Mattie T. Blount High School; KIRVEN LANG, in his official capacity as Assistant Principal of Mattie T. Blount High School; and JASON D. LAFFITTE, in his official capacity as Principal of C.L. Scarborough Middle School, Defendants.	CLASS ACTION CASE NO. CV-11-245

COMPLAINT

INTRODUCTION

1. This is a federal civil rights action brought by six Mobile County Public School ("MCPS") students on behalf of a class of other MCPS 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, who range in age from thirteen to eighteen, 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 expelled 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. The Defendants have 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. Long-term suspensions are devastating for students and their families. Suspended students are forced to miss weeks or months of classroom instruction. While out of school, students often receive automatic zeros and are rarely given

makeup work. As a result, they often fall behind their classmates and become frustrated with school. These consequences are magnified for students who are already struggling academically. Many students fail courses solely because of the number of missed class days, and some are forced to repeat a grade level as a result. Moreover, suspensions do nothing to address the underlying causes of misbehavior, which can range from academic issues and fear of embarrassment, to peer pressure, immaturity, disabilities, and the effects of trauma.

3. Long-term suspensions also have serious consequences for the entire community. Mobile faces a graduation rate crisis: less than 50 percent of MCPS students graduate from high school. Research has found that that the more days a student is suspended, the less likely the student is to graduate from high school. Students who do not graduate from high school cost the community millions of dollars in lost economic activity, increased social costs, and crime. The MCPS system consistently suspends well over 10,000 students at least one time per year; thousands of these suspensions are for minor infractions, such as dress code violations and tardies. Yet in 2010, MCPS significantly reduced the due process protections that principals must follow before suspending students.

4. This complaint raises two procedural due process claims. First, it presents a facial challenge to the official disciplinary procedure approved by the Board of School Commissioners of Mobile County—a procedure that allows

principals to impose long-term suspensions without first holding hearings at which students and parents can challenge proposed suspensions. Second, it challenges the practices of the named Defendant Principals, who summarily suspend students until the end of the semester without following even the minimal procedures set forth in the Board's official policy.

5. The Defendants' actions have caused the Plaintiffs and countless other students to suffer academically and emotionally. Most, if not all, of the Plaintiffs will be forced to repeat classes or whole grades, and many will not graduate on time. They want to return to school but do not feel welcome there.

6. 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 orders requiring an end to these unconstitutional practices, the immediate provision of notice and fair hearings for all affected students, and a change of the MCPS disciplinary procedure to ensure basic fairness to students facing lengthy suspensions from school and the resulting loss of educational opportunity.

PARTIES

7. Plaintiff M.R. is a fourteen-year-old student residing in Mobile, Alabama. During the 2010-2011 school year, he attended Mattie T. Blount High School as a ninth grader. In February 2011, he was suspended for the rest of the school year without proper notice or a hearing when he arrived late to lunch. M.R.

brings this action by and through his adoptive mother and great-grandmother, Mary Simmons.

8. Plaintiff K.S. is an eighteen-year-old student residing in Mobile, Alabama. He enrolled for the 2010-2011 school year at Mattie T. Blount High School and attended school there until January 2011, when he was long-term suspended without proper notice or a hearing, apparently for being late to class. K.S. brings this action through his mother, Rhonda Stewart.

9. Plaintiff D.M. is an eighteen-year-old student with a disability residing in Mobile, Alabama. He enrolled for the 2010-2011 school year at Mattie T. Blount High School and attended school there until he was long-term suspended without due process in January 2011, apparently for being tardy. D.M. brings this action through his mother, Pinkie Manassa.

10. Plaintiff S.A. is a seventeen-year-old student residing in Mobile, Alabama. He began the 2010-2011 school year at Mattie T. Blount High School. After attending school for a few weeks, he was long-term suspended without due process for having his shirttail out. S.A. brings this action through his mother, Michelle Manassa.

11. Plaintiff J.C. is a seventeen-year-old student with a disability who lives in Mobile, Alabama. J.C. attended Mattie T. Blount High School for approximately three weeks in August 2010. At the end of August, he was

summarily suspended for the rest of the semester for not having an official identification badge at school. J.C. brings this action by and through his mother, Alicia Campbell.

12. Plaintiff E.S. is a thirteen-year-old student residing in Mobile, Alabama. He attended seventh grade at C.L. Scarborough Middle School until late March 2011, when he was summarily suspended for the rest of the year for skipping a class. E.S. brings this action through his mother, Michelle Manassa.

13. Defendant Board of School Commissioners of Mobile County (the "Board") is an elected body responsible for setting local education policy consistent with state and federal laws governing public education. The Board directs the Superintendent to develop procedures and administrative regulations to support the Board's policy decisions. The Board approved the MCPS Student Handbook and Code of Conduct ("the Handbook"), which sets forth the procedures for imposing suspensions of more than ten days.

14. Defendant Jerome Woods is the Principal of Mattie T. Blount High School, a school in the MCPS system. As the Principal of a Mobile County Public School, the Board has authorized him to investigate alleged student misconduct, to carry out the disciplinary procedures described in the MCPS Handbook, and to impose suspensions of up to one semester.

15. In carrying out these duties and all actions discussed in the Complaint, Defendant Woods has been and is a state actor acting under color of state law. He is named as a defendant in his official capacity.

16. Defendant Kirven Lang is an Assistant Principal at Mattie T. Blount High School. As an Assistant Principal at Blount High School, he has the delegated authority to investigate alleged student misconduct, to carry out the disciplinary procedures described in the MCPS Handbook, and to impose suspensions of up to one semester.

17. In carrying out these duties and all actions discussed in the Complaint, Defendant Lang is and has been a state actor acting under color of state law. He is named as a defendant in his official capacity.

18. Defendant Jason D. Laffitte is the Principal of C.L. Scarborough Middle School in Mobile, Alabama, a public school in the MCPS System. As the Principal of a Mobile County Public School, the Board of School Commissioners of Mobile County has authorized him to investigate alleged student misconduct, to carry out the disciplinary procedures described in the MCPS Handbook, and to impose suspensions of up to one semester.

19. In carrying out these duties and all actions discussed in the Complaint, Defendant Laffitte is and has been a state actor acting under color of state law. He is named as a defendant in his official capacity.

JURISDICTION AND VENUE

20. 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).

21. 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 claim[s] occurred" within Mobile County, Alabama.

CLASS ACTION ALLEGATIONS

22. The named Plaintiffs bring this suit on their own behalf and on behalf of a class consisting of all current and former Mobile County Public Schools ("MCPS") students who have been or will be subject to disciplinary removals of more than ten days imposed by summary suspension without notice or hearing and/or in accordance with the "Specific Procedures for Formal Action" in the MCPS Student Handbook and Code of Conduct, as approved by the Board of School Commissioners of Mobile County in June 2010.

23. The proposed class is so numerous that joinder of all class members would be impractical. Over 60,000 students are currently enrolled in MCPS. All students are subject to the MCPS Handbook; any student could be charged with an infraction punishable by long-term suspension. The Handbook authorizes school administrators to impose long-term suspensions for a wide range of common,

nonviolent offenses, including but not limited to repeat tardies, skipping class, and dress code violations. According to the most recently available data from the U.S. Department of Education, MCPS suspended more than 20 percent of students at least one time per year, and eight MCPS schools suspended more than 50 percent of students at least once per year. Hundreds, if not thousands, of MCPS students receive long-term suspensions each year.

24. There are questions of law and fact common to all members of the proposed class, including, but not limited to, whether the failure to provide notice and a hearing to parents and students before placing students on long-term suspension violates the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

25. Because the policies, practices, and customs challenged in this Complaint apply with equal force to the named Plaintiffs and other members of the proposed class, the claims of the named Plaintiffs are typical of the proposed class in general.

26. The named Plaintiffs will fairly and adequately represent the interests of the proposed class. They possess a strong personal interest in the subject matter of the lawsuit and are represented by experienced counsel with expertise in class-action civil-rights litigation in federal court. Counsel have the legal knowledge and

resources to fairly and adequately represent the interests of all class members in this action.

27. The Defendants have acted and refused to act on grounds generally applicable to the proposed class. The MCPS disciplinary procedure policy applies to all students in the district. Accordingly, final injunctive and declaratory relief is appropriate to the class as a whole.

STATEMENT OF FACTS

28. Hundreds of MCPS students -- if not more than a thousand -- receive long-term suspensions each year.

29. Students who receive a long-term suspension may be assigned to a disciplinary alternative school, but are barred from attending any other MCPS school during the suspension.

30. For most of 2011, the alternative schools in MCPS have been filled to capacity and have not been accepting any more students.

31. According to MCPS representatives, as of approximately March 2011, approximately 50-60 students were on a waiting list for placement at alternative school.

32. The district does not provide educational services to most general education students who are on the waiting list for alternative school.

33. The district also does not provide educational services to most general education students who are long-term suspended without assignment to alternative school.

34. None of the named Plaintiffs have received educational services during their long-term suspensions.

35. While out of school, suspended MCPS students often receive automatic zeros and are rarely given makeup work. As a result, they often fall behind their classmates and become frustrated with school. These consequences are magnified for students who are already struggling academically.

36. Long-term suspended students may fail courses solely because of the number of missed class days. Some are forced to repeat a grade level as a result.

37. The American Academy of Pediatrics has recognized that long-term suspension and expulsion may exacerbate academic deterioration, and when students are provided with no immediate educational alternative, may lead to student alienation, delinquency, crime, and substance abuse.

MCPS Disciplinary Policy

38. All administrators, teachers, parents, and students in the MCPS system are subject to the rules and regulations contained in the MCPS Student Handbook and Code of Conduct (the "Handbook"). The Board of School

Commissioners of Mobile County (the "Board") approved the current Handbook as official policy of the MCPS system in June 2010.

39. The Handbook defines a long-term suspension as an out-of-school suspension lasting from eleven days to the end of the semester. The Handbook authorizes long-term suspension for a range of non-violent offenses, including the second instance of class cutting, using an electronic device, leaving the classroom without permission, or "any other offense which the principal may deem reasonable to fall within this category of acts of misconduct."[1] The district also allows principals to long-term suspend children for repeat dress code violations and tardies by treating such infractions as "act[s] of willful disobedience."[2]

40. The procedures that administrators must follow when imposing a long-term suspension are contained in a section of the Handbook entitled "Specific Procedures for Formal Action."[3]

41. Prior to June 2010, MCPS's Handbook specified a clear procedure to provide due process before school administrators could order a long-term suspension.[4] 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

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[1] Mobile County Public Schools Student Handbook and Code of Conduct (Approved June 2010), at 9-11.
[2] *Id.*
[3] *Id.* at 31-34.
[4] *See, e.g.*, Mobile County Public Schools Student Handbook and Code of Conduct (Approved June 2009); Mobile County Public Schools Student Handbook and Code of Conduct (Approved June 2004).

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 only impose a long-term suspension after that hearing.

42. In June 2010, the Board approved the current Handbook. This Handbook significantly reduced procedural protections for students facing long-term suspension.

43. The current Handbook does not require principals to provide notice of a proposed suspension to the parent/guardian, and does not require a due process hearing attended by the student and parent before the imposition of a long-term suspension.

44. Although the Handbook requires a "parent/guardian conference," the policy specifically allows principals to hold this meeting *after* the student has already served the long-term suspension. The policy also does not specify what must occur at the conference.

Violations of Procedural Due Process by Defendant Principals

45. Mattie T. Blount High School ("BHS") serves approximately 1,400 students. The most recently available data reported by MCPS to the U.S. Department of Education revealed that approximately 51 percent of BHS students were suspended at least one time during the school year. From 2009 to 2010, the

number of suspensions at BHS increased overall, and particularly for students from low-income households.

46. As described below, the Defendant BHS Principals have a practice of imposing long-term suspensions without providing notice of a proposed suspension or convening a hearing with the parent and student before suspending the student.

47. This practice is not limited to BHS. Principals and assistant principals at a number of schools across the MCPS system have imposed long-term suspensions without providing notice of a proposed suspension or convening a hearing with the parent and student before the suspension is imposed.

Plaintiff M.R.

48. On August 9, 2010, fourteen-year-old M.R. began ninth grade at Mattie T. Blount High School ("BHS"). Soon thereafter, Defendants Principal Jerome C. Woods and Assistant Principal Kirven Lang began suspending M.R. for minor rule violations, like wearing the wrong color shoes.

49. On November 16, 2010, Defendant Lang suspended M.R. for 20 days, through the end of the fall semester, for skipping a class.

50. In February 2011, M.R. arrived late for lunch because he was retrieving his jacket from a classroom. He had attended his prior class.

51. Defendant Woods accused him of skipping class and suspended him for the rest of the semester. Defendant Woods told M.R. not to come back to

school for the rest of the school year and warned that, were he to return to campus, he would have him arrested for trespassing.

52. That day, Defendant 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. He did not explain why. He also told Mrs. Simmons that all of the alternative schools were full, and that M.R. could not attend any other MCPS school. He did not try to schedule a parent conference with Mrs. Simmons or inform her of M.R.'s procedural rights.

53. The next day and over the following week, Mrs. Simmons called Defendants Woods and Lang multiple times and left messages for them requesting a written notice of suspension. She did not receive a return call or a notice of suspension.

54. A week or so after the suspension, Mrs. Simmons wrote a letter to the BHS principals requesting a document explaining why M.R. was put out of school. After they failed to respond to her letter, Mrs. Simmons continued to call the school and left messages for Defendants Woods and Lang. They never called her back.

55. Mrs. Simmons also contacted MCPS's Central Office and explained the circumstances of her son's long-term suspension. No one offered to address

the lack of due process her son had received or informed her of any right to challenge the suspension.

56. Around the beginning of April 2011, Mrs. Simmons began receiving automated telephone calls from BHS stating that M.R. had been truant from school. Mrs. Simmons wrote a letter to Defendant Woods asking for guidance on how she should proceed given that M.R. had been long-term suspended. Defendant Woods never responded.

57. Before suspending M.R. for the rest of the semester, Defendant Woods did not provide M.R. an opportunity to defend himself.

58. Defendant Woods did not give M.R. an opportunity to present his account of the incident or explain his behavior.

59. Defendant Woods failed to give M.R. an opportunity to present written evidence or exhibits to support his case.

60. Defendant Woods did not give M.R. an opportunity to submit a list of names of witnesses for his defense, and accordingly did not try to obtain statements from all potential witnesses or consider those witness statements before rendering his decision.

61. Defendant Woods did not give Mrs. Simmons oral or written notice of a proposed suspension.

62. Defendant Woods did not convene a due process hearing with Mrs. Simmons and M.R. or allow them an opportunity to obtain and be represented by counsel.

63. Defendants Woods did not give Mrs. Simmons an opportunity to advocate for her child before imposing suspension.

64. Before imposing the long-term suspension, Defendant Woods did not provide an explanation of the evidence he had to support the charges.

65. After imposing the suspension, Defendants Woods and Lang did not provide a written notice of suspension to M.R. or Mrs. Simmons.

66. Defendant Woods and Lang also did not inform M.R. or Mrs. Simmons of M.R.'s procedural rights regarding the suspension.

67. When Defendant Woods suspended M.R. until the end of the semester, 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 MCPS cumulative file.

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

69. While on long-term suspension, M.R. has received automatic zeros and not received any makeup work. He has received no educational services from MCPS during his long-term suspension.

70. M.R., who has never previously been held back in school, will have to repeat the ninth grade.

71. Once excited about school, M.R. has become depressed and disillusioned since being kicked out of school. He often feels like giving up on education and says he does not want to attend BHS because he feels the school administrators do not want him there. It is difficult for him to believe he was suspended from school for the remainder of the year.

72. Nevertheless, M.R. must re-enroll in the MCPS for the 2011-2012 school year.

Plaintiff K.S.

73. K.S. was a student at Blount High School for the 2010-2011 school year.

74. On or about January 25, 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. A few other students were walking in the hallway as well. Defendant Woods stopped K.S. and the other students, took their identification badges, and told them to leave and not to come back to BHS.

75. Defendant Woods did not give K.S. an opportunity to defend himself before suspending him.

76. That day, a secretary from the school called K.S.'s mother, Rhonda Stewart, and told her that K.S. was suspended for the rest of the school year. She did not explain why.

77. Ms. Stewart called the school repeatedly to talk to Defendants Woods and Lang about the long-term suspension, but they did not return her calls.

78. Before long-term suspending K.S., Defendant Woods did not explain the evidence he had to support the suspension.

79. Defendant Woods did not give K.S. an opportunity to present his account of the situation or explain his behavior.

80. Defendant Woods did not give K.S. an opportunity to present written evidence or exhibits to support his defense.

81. Defendant Woods did not give K.S. an opportunity to submit a list of names of witnesses to support him, and accordingly did not try to obtain statements from potential witnesses or consider such witness statements before rendering his decision.

82. Defendant Woods did not give Ms. Stewart oral or written notice of a proposed suspension.

83. Defendant Woods did not convene a due process hearing with Ms. Stewart and K.S. or allow them an opportunity to obtain and be represented by counsel.

84. Defendant Woods did not provide an explanation of the evidence he had to support the charges.

85. Defendants Woods did not give Ms. Stewart an opportunity to advocate for her child before imposing suspension.

86. After imposing the suspension, Defendants Woods and Lang did not send Ms. Stewart a written notice of suspension.

87. They also did not inform K.S. or Ms. Stewart of M.R.'s procedural rights regarding the suspension.

88. When Defendant Woods suspended K.S. until the end of the semester, he did not create any official record of his actions. K.S.'s long-term suspension is not documented in K.S.'s disciplinary records in the MCPS computer system or in his MCPS cumulative file.

89. K.S. plans to re-enroll in the MCPS for the 2011-2012 school year.

Plaintiff D.M.

90. D.M. has been a student at Blount High School for the last four years but has been repeatedly retained in the ninth grade. He is a student with a disability. A teacher told D.M.'s mother that students and even some teachers make fun of D.M.

91. During his four years at BHS, Defendant Woods has prevented D.M. from taking schoolwide standardized tests. Defendant Woods has suspended D.M.

during the testing periods or called his mother and threatened to have D.M. arrested if he came to school during the tests.

92. Defendant Woods suspended D.M. multiple times for nonviolent and minor infractions during his years at BHS.

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

94. D.M. enrolled at Blount for the 2010-11 school year. In December 2010 or 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. Defendant Woods said that he would be suspended instead. D.M. expressed dismay about this decision, and Defendant Woods responded aggressively.

95. Shortly thereafter, Defendant Woods called D.M.'s mother and told her she needed to pick up D.M. right away. His mother asked why, but Defendant Woods refused to tell her.

96. The next day, D.M.'s mother called and left a message for Defendant Woods seeking information about when she could bring D.M. back. Defendant Woods called back and said that D.M. could not return to school until May 2011.

97. Before long-term suspending D.M., Defendant Woods did not give D.M. an opportunity to defend himself.

98. Defendant Woods did not give D.M. an opportunity to present his account of the situation.

99. Before long-term suspending him, Defendant Woods did not give D.M. or his mother oral or written notice of the charges.

100. Before suspending D.M., Defendant Woods did not give D.M.'s mother oral or written notice of the proposed suspension.

101. Defendant Woods did not convene a due process hearing with D.M. and his mother or allow them an opportunity to obtain and be represented by counsel.

102. Defendant Woods did not provide an explanation of the evidence he had to support the charges to D.M. or his mother.

103. Defendant Woods did not give D.M. an opportunity to present written evidence or exhibits to support his case.

104. Defendant Woods did not give D.M. an opportunity to submit a list of names of witnesses to support him, and accordingly did not try to obtain statements

from potential witnesses or consider such witness statements before rendering his decision.

105. Defendants Woods did not give D.M.'s mother an opportunity to advocate for her child.

106. After imposing the suspension, Defendant Woods did not send D.M.'s mother a written notice of suspension.

107. Defendant Woods also did not inform D.M. or his mother of their procedural rights related to the suspension.

108. When Defendant Woods suspended D.M. until the end of the semester, he did not create any official record of his actions.

109. This long-term suspension is not documented in D.M.'s cumulative file. Nor is it documented in D.M.'s disciplinary records in the MCPS computer system.

110. Defendant Woods did not arrange for any educational services for D.M. during the 2011 long-term suspension and did not have him placed in alternative school.

111. Unable to attend school, D.M. decided to look for work, but was told he needed documents from his school in order to obtain an identification card. D.M. went to BHS and asked for the paperwork needed to get an identification card. He was given a paper to sign, which he did.

112. When D.M. returned from BHS, his mother looked at the paperwork and saw that he had actually signed documents to withdraw himself from school. D.M. did not know what he had signed.

113. D.M.'s mother was very upset. She called the school and left a message for Defendant Woods.

114. As of today's date, Defendant Woods has not returned the call.

115. D.M. plans to re-enroll in the MCPS for the 2011-2012 school year.

Plaintiff S.A.

116. In August 2010, S.A. enrolled as a student at BHS. About a month after school began, S.A. left gym class and proceeded towards his next class. Before leaving the gym, S.A. changed into his school uniform, but forgot to tuck in his shirt.

117. Defendant Lang noticed S.A.'s untucked shirt and stopped him outside the gym. Rather than instructing S.A. to tuck in his shirt or asking why it was untucked, Defendant Lang ordered S.A. to the main office.

118. Once in the office, Defendant Lang told S.A. to go home and not to come back.

119. S.A. was confused. Because Defendant Lang failed to inform him of the length of his suspension, S.A. returned to school approximately a week later.

Defendant Lang spotted him on campus, ordered him to leave school immediately, and threatened to have him arrested for trespassing if he returned.

120. In long-term suspending S.A.., Defendant Lang denied S.A. an opportunity to defend himself.

121. Defendant Lang failed to give S.A. an explanation of the evidence he had to support the charges.

122. Defendant Lang failed to give S.A. an opportunity to present his account of the incident or explain his behavior.

123. Defendant Lang did not provide oral or written notice of a proposed suspension to S.A.'s mother, Michelle Manassa.

124. Defendant Lang did not convene a due process hearing with S.A. and his mother, and did not give them the opportunity to obtain counsel to represent them.

125. Defendant Lang failed to give S.A. an opportunity to present written evidence or exhibits to support his case.

126. Defendant Lang failed to give S.A. an opportunity to submit the names of witnesses who could corroborate his account or support him, and accordingly did not try to obtain statements from the student's witnesses or consider their testimony in rendering his decision.

127. Defendant Lang did not give S.A.'s mother the opportunity to advocate for her child before imposing the long-term suspension.

128. After imposing the suspension, Defendant Lang failed to provide a written notice of suspension to S.A. or his mother.

129. Defendant Lang also did not explain to S.A. or his mother their procedural rights related to the suspension.

130. In fact, Defendant Lang did not officially document the long-term suspension. This suspension is not documented in S.A.'s cumulative file or on in MCPS's computer system.

131. About a week later, S.A.'s mother, Michelle Manassa, received a packet from BHS in the mail. The packet included a withdrawal slip, S.A.'s educational records, and information on the Drop Back In ("DBI") program, a local center for dropouts.

132. Ms. Manassa was shocked. She had never signed withdrawal papers for S.A. Under state law, S.A. is not old enough to withdraw himself from school.[5]

133. S.A. currently attends the DBI program, but he misses high school. The DBI program offers no formal instruction. Students spend the majority of their time on a computer. S.A., who struggles in several academic areas, no longer has the access to teachers with specific subject expertise that he had at BHS.

[5] *See* Code of Ala. § 16-28-3.1 (2011).

134. S.A. plans to re-enroll in the MCPS for the 2011-2012 school year.

Plaintiff J.C.

135. In August 2010, J.C. began the school year at Blount High School. J.C. is a student with disability. He did not understand much of the coursework in the classes in which he was placed but had been promoted year after year in spite of failing grades.

136. About three weeks into the school year, Defendant Woods noticed J.C. walking in the hallway without an identification ("ID") badge. Defendant Woods ordered J.C. to leave and not to come back to school.

137. J.C.'s mother, Ms. Alicia Campbell, had ordered him an ID badge, but it was not ready.

138. Defendant Woods denied J.C. an opportunity to defend himself before long-term suspending him.

139. Defendant Woods failed to give J.C. an opportunity to explain why he did not have his ID badge.

140. Defendant Woods did not provide Ms. Campbell with oral or written notice of the proposed suspension before imposing the long-term suspension.

141. Defendant Woods did not convene a due process hearing with J.C. and Ms. Campbell, and did not give them an opportunity to obtain counsel to represent them in the proceedings.

142. Defendant Woods failed to give J.C. an opportunity to present written evidence or exhibits to support his case before imposing the suspension.

143. Defendant Woods failed to give J.C. an opportunity to provide a list of witnesses for his defense, and accordingly did not try to obtain statements from the J.C.'s witnesses or consider their testimony in rendering his decision.

144. Defendant Woods did not provide Ms. Campbell the opportunity to advocate for her child before imposing the suspension.

145. After imposing the long-term suspension, Defendant Woods did not provide J.C. or Ms. Campbell with a written notice of suspension documenting J.C.'s long-term suspension or inform them of their procedural rights regarding the suspension.

146. Defendant Woods did not officially document his long-term suspension of J.C. There is no record of the long-term suspension in J.C.'s MCPS cumulative file or in the J.C.'s disciplinary records in the MCPS computer system.

147. In fact, attendance records obtained from Blount High School stop with the 2009-2010 school year and show no attendance during the 2010-2011 year. It appears that J.C.'s attendance records were altered to make it appear that he had dropped out of school.

148. J.C. plans to re-enroll in the MCPS for the 2011-2012 school year.

Plaintiff E.M.

149. E.M. is a thirteen-year-old student at C.L. Scarborough Middle School. He is an intelligent child who often has difficulty with impulsivity, sitting still, and paying attention.

150. C.L. Scarborough Middle School serves approximately 500 students in the sixth, seventh, and eighth grades. According to the most recently available U.S. Department of Education data, 24 percent of all Scarborough Middle School students were suspended at least once during the school year.

151. In early April 2011, Defendant Principal Laffitte saw E.M. outside of his classroom and ordered him to the main office. Once at the office, Laffitte suspended E.M. for the rest of the semester without notice or a hearing.

152. Before long-term suspending E.M., Defendant Laffitte did not give him an opportunity to present a defense.

153. Defendant Laffitte did not give E.M. an opportunity to explain why he was outside his classroom or otherwise explain his behavior.

154. E.M.'s mother received no oral or written notice of a proposed suspension from the school.

155. Defendant Laffitte did not convene a due process hearing with E.M. and his mother before imposing the long-term suspension, and did not give them the opportunity to obtain counsel to assist them with the proceedings.

156. Defendant Laffitte did not provide E.M.'s mother the opportunity to advocate for her child before suspending him for the rest of the school year.

157. Defendant Laffitte did not give E.M and his mother an explanation of the evidence he had to support the suspension.

158. Defendant Laffitte did not give E.M. an opportunity to present written evidence or exhibits in his defense. Defendant Laffitte did not give E.M. an opportunity to submit the names of witnesses who could support his defense, and accordingly did not try to obtain statements from the student's witnesses or consider their testimony in rendering his decision.

159. Defendant Laffitte did not provide a written notice of suspension to the student or his mother after deciding to suspend him, and did not inform them of their procedural rights regarding the suspension.

160. Defendant Laffitte never officially documented the long-term suspension. E.M.'s cumulative file contains no documentation of it, and it is not documented in MCPS's computer system.

161. Defendants' actions have caused E.M. great harm. Because all of the district's alternative schools are full, E.M. has been out of school for over a month. E.M., who has never failed a class, will likely have to repeat the seventh grade, greatly increasing his chances of not graduating from school.

162. E.M. will re-enroll in MCPS for the 2011-2012 school year.

CLAIMS FOR RELIEF

COUNT ONE

Violations of the Fourteenth Amendment by Defendant Board of School Commissioners of Mobile County

By implementing a policy that authorizes school administrators to suspend students for longer than ten days without first providing proper notice and a 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.

COUNT TWO

Violations of the Fourteenth Amendment by Defendants Woods, Lang, and Laffitte

By summarily punishing Plaintiffs with suspensions of longer than ten days without first providing them with proper notice and a hearing, Defendants Woods, Lang, and Laffitte have violated and continue to violate the Plaintiffs' rights to procedural due process under the Fourteenth Amendment to the United States Constitution.

PRAYER FOR RELIEF

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

1. Certify a class consisting of all current and former Mobile County Public Schools ("MCPS") students who have been or will be subject to disciplinary removals of more than ten days imposed by summary suspension without notice or hearing and/or in accordance with the "Specific Procedures for Formal Action" in the MCPS Student Handbook and Code of Conduct, as approved by the Board of School Commissioners of Mobile County on June 2010;

2. Declare that the disciplinary procedures set forth in the MCPS Student Handbook and Code of Conduct for suspensions of more than ten days violate the procedural due process guarantees of the Fourteenth Amendment to the United States Constitution;

3. Declare that the Defendants have violated the rights of the named Plaintiffs under the Fourteenth Amendment to the United States Constitution;

4. Enter a preliminary and permanent injunction requiring the Defendants, their agents, their employees, and all persons acting in concert with them to cease their unconstitutional practices and to remedy their violations of the Plaintiffs' rights under the United States Constitution;

5. Grant equitable relief requiring the Defendants to identify and address the violation of rights, and any attendant educational deprivations, that their actions have caused members of the Plaintiff Class;

6. Award the Plaintiffs reasonable costs and attorneys' fees; and

7. Grant any other relief this Honorable Court may deem just and proper.

Respectfully submitted, this the 12th day of May, 2011.

/s/ Marion D. Chartoff
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