

of Conduct and 48 were suspended or expelled from their regular classrooms as a result.

3. Defendants, who are responsible for the administration of PCS, routinely fail to employ fundamentally fair procedures to determine whether a student has violated the Code of Conduct prior to excluding the student from the classroom, as required by their own policy and the United States Constitution.
4. Defendants' failure to implement fair disciplinary processes disproportionately impacts students of color, particularly Black students. Eighty percent of the students referred for disciplinary hearings in the 2019-2020 school year were Black, although Black students comprised less than fifty percent of the total student population. Since the 2016-2017 school year, 77 percent of all PCS students referred for disciplinary hearings were Black students.
5. Petitioner R.M. was suspended and excluded from Goshen High School ("GHS"), a public school in PCS, for an alleged violation of the Code of Conduct that he did not commit.
6. Defendants failed to provide R.M. with a fundamentally fair disciplinary process and ultimately excluded R.M. without sufficient evidence to substantiate the allegations against him.
7. Defendants exceeded their authority, abused their discretion, and arbitrarily deprived R.M. of his right to a public education.
8. R.M. respectfully requests that this Court find that the Board's disciplinary action improperly infringed or denied R.M.'s rights, reverse the Board's decision, and correct R.M.'s disciplinary records to reflect that he was not in violation of the Code of Conduct.

II. JURISDICTION AND VENUE

9. To initiate judicial review of a school board's disciplinary decision, a complaint or petition must be filed alleging "facts sufficient to establish the subject-matter jurisdiction and venue of the juvenile court." Ala. R. Juv. P. 12(A).
10. This Court has subject matter jurisdiction over this action, under Ala. Code § 12-15-115(b)(2), because the juvenile court "shall have original jurisdiction in proceedings . . . [w]here it is alleged that the rights of a child are improperly denied or infringed in proceedings resulting in suspension, expulsion, or exclusion from a public school."
11. Alabama law defines a "child" as "an individual under the age of 19 years." Ala. Code § 12-15-102(3).
12. "[T]he juvenile court is not limited to merely reviewing the Board's hearing for procedural flaws; it must also determine whether the *substance* of the proceedings has resulted in infringement upon rights conferred upon the child by the state . . . The juvenile court exercises original jurisdiction over these issues and thus is not limited only to a review of constitutional issues arising from the Board's action." *C.L.S. by and through S.S.C. v. Hoover Bd. of Educ.*, 594 So. 2d 138, 139 (Ala. Civ. App. 1991).
13. Venue is proper, under Ala. Code § 12-15-302, because Pike County is where Plaintiff resides, Defendants operate, and the underlying factual allegations occurred.

III. PARTIES

14. Plaintiff: R.M. is a Black, eighteen-year-old youth, formerly enrolled in PCS. R.M.'s rights were infringed in proceedings resulting in his unlawful suspension and exclusion from PCS from November 22, 2019 through February 21, 2020, during his senior year of high school. R.M., a child under Ala. Code § 12-15-102(3), is represented by and through his parent and next friend, Tasha Martin, a permanent resident of Pike County, Alabama, who is of the age of majority.

15. Defendants: The Pike County Board of Education is a local educational agency in Troy, Alabama, which provides the general administration and supervision of the public schools and educational interests for all schools in PCS, including GHS. Earnest Green, Greg Price, Justin Davis, Linda Steed, Clint Foster, and Charles Wilkes are members of the Board and are named in their representative capacities.

IV. FACTUAL ALLEGATIONS

Background

16. R.M. was seventeen years old when he was arbitrarily and unlawfully suspended and excluded from GHS during his senior year of high school.
17. Prior to this incident, R.M. had never received a disciplinary referral.
18. R.M. was a strong student who performed well academically and was well-liked by his teachers and peers.
19. R.M. played football and basketball at GHS. Prior to his exclusion from GHS, he was on track to receive a college football scholarship.

The Suspension

20. On November 22, 2019, GHS Principal Britford questioned R.M. in connection with alleged rumors that a group of students had “smoked” that same day in the parking lot at school.
21. While questioning R.M., Principal Britford implied that he had video footage of R.M. using marijuana in the parking lot but would not allow R.M. to view it.
22. R.M. told Principal Britford that he had not used or possessed marijuana. He explained that he had briefly accompanied another student to her car in the parking lot, but immediately returned to school when the other student showed him what appeared to be drug paraphernalia.
23. Principal Britford did not refer the matter to the Pike County Police Department.

24. GHS did not investigate whether R.M. possessed or used marijuana by requesting R.M. to submit to drug testing, interviewing his teachers about his behavior in class, or searching his person or his car.
25. Still, R.M. was charged with violating Rule 4.5 of the Code of Conduct, which prohibits the sale, purchase, use, or possession of illegal drugs or alcoholic beverages at school. R.M. was indefinitely suspended pending a hearing before the Superintendent's Disciplinary Council ("Disciplinary Council").
26. Although R.M. received written notice that he had been suspended and charged with violating Rule 4.5 of the Code of Conduct, the notice contained no additional detail about the specific acts that resulted in the alleged violation.
27. The notice contained no information about the potential consequences that R.M. faced; however, according to the Code of Conduct, expulsion is a potential consequence for any Rule 4 violation.
28. On November 22, 2019, after receiving notice of the allegations against him, R.M. immediately and voluntarily submitted to a drug test.
29. The drug test indicated that R.M. had not used marijuana or any other tested substance for thirty days.
30. R.M. was suspended for twelve days before his disciplinary hearing was held.

Board Policy

31. The Board's policy guarantees procedural protections to any student facing disciplinary action for alleged violations of the Code of Conduct.
32. At a minimum, prior to being disciplined for an alleged violation of the Code of Conduct, students are entitled to receive notice of the charges against them, an explanation of the evidence against them, and the opportunity to present a defense.

33. Per the Board's policy, the degree of procedural protections afforded "shall be dependent upon: (1) the gravity of the offense a student is alleged to have committed; and (2) the severity of the contemplated penalty."
34. The Board's policy defines "serious disciplinary action" as student misconduct that could result in a long-term suspension or expulsion.
35. The Board's policy also guarantees the following procedural protections to students facing "serious disciplinary action":
- (1) the right to an administrative hearing before the Board;
 - (2) the right to counsel;
 - (3) the right to present witnesses;
 - (4) the opportunity for cross-examination of witnesses; and
 - (5) a written record of the decision.

The Hearing

36. On December 10, 2019, R.M. attended an "administrative hearing" before the Disciplinary Council, comprised of PCS administrators.
37. From the outset of R.M.'s hearing, the allegations against him were unclear. When outlining the reasons for R.M.'s hearing, Principal Britford did not specifically allege that R.M. possessed or used marijuana on November 22, 2019. Instead, Principal Britford vaguely alleged that "several students" left class, went to a car, "smoked," and returned to class.
38. Principal Britford did not indicate whether he was alleging that R.M. smoked in a car or had merely been around other students who smoked in a car.
39. GHS presented no evidence to establish that R.M. used or possessed any illegal drug on November 22, 2019 in violation of Rule 4.5.

40. GHS presented no evidence to establish that R.M. was with another student who used or possessed any illegal drug on the day in question.
41. GHS presented no evidence to establish that any illegal drugs had been found on R.M., on any student who had been with R.M., or in a car on the day in question.
42. GHS presented no evidence to establish that R.M. had been or appeared to be under the influence of drugs at school on the day in question.
43. The only evidence presented at R.M.'s hearing relevant to whether R.M. had used or possessed illegal drugs in violation of Rule 4.5 was R.M.'s own testimony and prior statement, in which R.M. adamantly denied the allegations against him.
44. R.M.'s testimony was consistent with his prior statement to Principal Britford: he had accompanied another student to her car, but he returned to school immediately after she showed him an object that appeared to be drug paraphernalia.
45. The Disciplinary Council acknowledged that the record lacked evidence to support allegations that R.M. had used or possessed illegal drugs at GHS. One member of the Disciplinary Council, Mark Heard, told R.M., "only you know what did or didn't happen in that vehicle . . . you dodged a bullet here because we didn't have the proof that we need."
46. The Disciplinary Council commented that there were "drugs involved one way or another," that R.M. was "in the wrong place at the wrong time," and that there was "a lot going on that shouldn't have been going on," but the Disciplinary Council did **not** find that R.M. used or possessed illegal drugs in violation of Rule 4.5.
47. In finding that there were "drugs involved," the Disciplinary Council relied on inadmissible hearsay outside of the hearing record not subject to cross-examination.
48. Donella Carter, a member of the Disciplinary Council, told R.M. that the Disciplinary Council "already [knew] that smoking was going on in the car." However, there was

no evidence in the hearing record to establish that any student had smoked in a car on the date in question. Ms. Carter did not reveal the source of this “knowledge.”

49. R.M.’s testimony was uncontested. Yet, Disciplinary Council Member Carter told R.M. that his testimony did not “match the other stories that [the Disciplinary Council previously] heard.”

50. R.M. was denied the opportunity to cross-examine the unidentified persons whose “stories” the Disciplinary Council apparently heard outside of R.M.’s disciplinary hearing and relied upon.

51. Despite admitting that it lacked evidence to find that R.M. had used or possessed marijuana, the Disciplinary Council inexplicably found that R.M. violated the Code of Conduct without articulating which specific rule R.M. violated.

52. The Disciplinary Council reached a predetermined disciplinary decision based on information obtained outside of R.M.’s hearing.

53. The Disciplinary Council excluded R.M. from GHS through the end of the 2019-2020 school year, with the option to attend PCS’ alternative school program.

The Appeal

54. R.M. timely appealed the decision of the Disciplinary Council to the Board.

55. The Board heard R.M.’s appeal on January 13, 2020.

56. R.M. was the only witness to testify at the appeal hearing before the Board. R.M. apologized for his decision to skip class and reiterated that he had not possessed or used marijuana.

57. R.M. also presented his negative drug test results to the Board. The Board refused to consider this evidence.

58. After adjourning to deliberate, the Board consulted with the Disciplinary Council outside the presence of R.M. and his parent. The Board refused R.M.'s request to be present while the Board consulted with the Disciplinary Council.
59. Although GHS presented no evidence or witnesses at the Board hearing, the Board upheld the decision of the Disciplinary Council. The Board did not articulate what the initial finding of the Disciplinary Council had been or why it decided to affirm that finding.
60. The Board agreed to reconsider R.M.'s appeal on the condition that R.M. agree to submit to additional urine and hair follicle drug testing and to complete drug education courses.
61. Upon completing these requirements, R.M. attended the Board's regularly scheduled meeting on February 17, 2020, to request his readmission to GHS.
62. The Board refused to consider R.M.'s request.
63. Four days later, on February 21, 2020, R.M. was finally permitted to return to GHS. He had been excluded from GHS for almost three months.

Harm Caused by R.M.'s Unlawful Suspension and Exclusion from School

64. R.M. was suspended for twelve days and excluded from GHS for almost three months.
65. While he was excluded from GHS, R.M. could only access his education via PCS' alternative program.
66. At the alternative program, R.M. received an inferior education in an isolated setting.
67. PCS' alternative program is located in a windowless, concrete building surrounded by barbed-wire fencing. Students must enter the building through a metal detector.
68. PCS' alternative program is entirely computer-based. R.M. received no live instruction while enrolled at PCS' alternative program.

69. R.M.'s academic performance suffered at PCS' alternative program because he was unable to ask teachers questions, engage in discussions about the academic material, or maintain focus without any live instruction or support.
70. R.M. was denied the opportunity to participate in extracurricular activities or PCS functions while enrolled at PCS' alternative program.
71. As a result of his suspension and exclusion from GHS, R.M. was denied his opportunity to finish the football season, be eligible for a football scholarship, and attend college as planned.
72. R.M. currently works at Walmart.
73. R.M. still intends to pursue higher education in the future.
74. A suspension and exclusion on R.M.'s student records will continue to prohibit, or severely limit, subsequent opportunities for higher education and employment.
75. R.M. was devastated, embarrassed, and extremely distressed by his suspension and exclusion from GHS.
76. R.M. still suffers the emotional consequences of this incident, including depression, loss of confidence, and low self-esteem.

V. LEGAL CLAIMS

77. Defendants improperly infringed on R.M.'s rights in a proceeding resulting in his suspension and exclusion from GHS, a public school.
78. Defendants improperly infringed on R.M.'s rights by (1) issuing an arbitrary and capricious decision that was unsupported by evidence, (2) failing to comply with its own adopted policy, and (3) disciplining R.M. in violation of the requisites of constitutional due process.

Count 1: Arbitrary and Capricious Decision

79. Students have a right to avoid “unfair or mistaken exclusion from the educational process, with all its unfortunate consequences.” *Goss v. Lopez*, 419 U.S. 565, 574 (1975).
80. A local board of education denies or improperly infringes on a student’s right to education when it unreasonably or arbitrarily disciplines a student. *C.L.S. by and through S.S.C. v. Hoover Bd. of Educ.*, 594 So. 2d 138, 139 (Ala. Civ. App. 1991).
81. An unreasonable or arbitrary disciplinary action occurs when a local board of education fails to satisfy its burden of proof and consequently excludes a student based on insufficient evidence to prove that the student violated a board rule or policy.
82. Defendants subjected R.M. to an unreasonable or arbitrary and capricious disciplinary action by suspending and excluding R.M. despite insufficient evidence to conclude that R.M. violated the Code of Conduct as alleged.
83. The Board failed to carry its burden to prove or establish the essential elements of R.M.’s alleged infraction.
84. Defendants lacked evidence to find that R.M. violated Rule 4.5 of the Code of Conduct as alleged.
85. Defendants decision to discipline R.M. despite a lack of evidence to support the allegations against him was arbitrary, capricious, and an abuse of discretion.

Count 2: Noncompliance with Board Policy

86. A local board of education must comply with the policies it adopts. *Belcher v. Jefferson Cnty. Bd. of Educ.*, 474 So. 2d 1063, 1068 (Ala. 1985).
87. The Board cannot arbitrarily refuse to provide procedural protections to a student facing serious disciplinary action, like R.M., when those protections are guaranteed by the Board’s policy.

88. R.M. was facing serious disciplinary action as a result of allegedly violating Rule 4.5 of the Code of Conduct and was therefore entitled to all procedural protections outlined by the Board's policy.
89. Defendants failed to provide R.M. with notice of the charges against him and an opportunity to be heard prior to suspending him for twelve days, as guaranteed by the Board's policy.
90. Defendants failed to provide R.M. with an explanation of the evidence against him, as guaranteed by the Board's policy.
91. Defendants failed to provide R.M. with the opportunity to cross-examine witnesses as guaranteed by the Board's policy.
92. Defendants acted arbitrarily and beyond their authority by disciplining R.M. in violation of the Board's policy.
93. Defendants' repeated failures to comply with the Board's policy amounted to legal error and an unlawful abuse of discretion.
94. This arbitrary and unlawful disciplinary action infringed on R.M.'s rights under Ala. Code § 12-15-115(b)(2).

Count 3: Violation of R.M.'s Right to Procedural Due Process

95. Public school students facing suspension or exclusion from school for disciplinary reasons have both a property and reputational liberty interest that qualify for protection under the Due Process Clause of the Fourteenth Amendment of the United States Constitution. *Goss v. Lopez*, 419 U.S. 565, 574 (1975).
96. A local board of education may not infringe on a student's right to his public education on grounds of misconduct absent "fundamentally fair procedures to determine whether some kind of misconduct has occurred." *Id.*

97. “[W]hen the basic constitutional rights of students are at issue, [courts] cannot avoid considering these constitutional rights when they are infringed by board action. The authority vested in school boards and officials to maintain order and discipline in schools must be exercised within constitutional bounds.” *Dothan City Bd. of Educ. v. V.M.H.*, 660 So. 2d 1328, 1330 (Ala. Civ. App. 1995).
98. While courts may give broad discretion to discipline decisions made by a local board of education, the deferential standard is trumped when school boards violate due process. *Monroe Cnty. Bd. of Educ. v. K.B.*, 62 So. 3d 513, 516 (Ala. Civ. App. 2010).
99. Defendants failed to implement fundamentally fair procedures to determine whether R.M. committed any alleged misconduct prior to infringing on his right to an education.
100. Defendants failed to provide R.M. with notice of the charges against him.
101. Defendants failed to provide R.M. with an explanation of the evidence against him.
102. Defendants failed to provide R.M. with an opportunity to be heard.
103. Defendants suspended R.M. for twelve days before providing him with a disciplinary hearing.
104. Defendants refused to consider evidence presented by R.M. in his defense.
105. Defendants reached a predetermined conclusion based on information obtained outside of R.M.’s hearing and not subject to review by R.M.
106. Defendants failed to independently consider the merits of R.M.’s case to determine whether he had violated the Code of Conduct as alleged.
107. Defendants deprived R.M. of the opportunity to confront and cross-examine adverse witnesses.
108. Defendants arbitrarily denied R.M. the protections guaranteed by Board policy.

109. Defendants failed to establish that R.M. violated the Code of Conduct prior to excluding him from GHS.

110. Defendants disciplined R.M. despite a lack of evidence substantiating the specific allegations against him.

111. Defendants' failure to adhere to the minimum procedures required by the Due Process Clause resulted in an abuse of discretion and an arbitrary deprivation of R.M.'s right to a public education.

VI. PRAYER FOR RELIEF

R.M. respectfully requests that this Court:

- i. Find that Defendants' disciplinary decision improperly denied or infringed R.M.'s rights;
- ii. Reverse Defendants' disciplinary decision against R.M.;
- iii. Correct R.M.'s academic records to reflect that R.M. did not violate the Code of Conduct;
- iv. Order Defendants' to reform their disciplinary policies and practices and train PCS staff on the implementation of the reformed policies; and;
- v. Award any other relief deemed just and proper.

Respectfully submitted this 21st day of October, 2020.

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