

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

TYMISHA JORDAN)	
)	Civil Action No. 4-08-CV-131 CDL
Plaintiffs,)	
)	
v.)	
)	
RANDOLPH COUNTY SCHOOL)	
DISTRICT,)	
and,)	JURY TRIAL DEMANDED
)	
RANDOLPH COUNTY BOARD OF)	
EDUCATION)	
and)	
)	
HENRY COOK, In His Capacity as Chair of)	
the Randolph County Board of Education,)	
and)	
)	
ROBERT JENKINS, In His Capacity as)	
Superintendent of Randolph County School)	
District)	
and)	
)	
LEE BYRD, In His Capacity as Principal of)	
Randolph Clay High School)	
)	
Defendants.)	
)	
)	
)	
)	
)	
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)	

AMENDED COMPLAINT FOR DAMAGES

COMES NOW, Plaintiffs, by and through undersigned counsel, and files this
Complaint for Damages, and shows the Court as follows:

JURISDICTION

1. Plaintiff invokes the jurisdiction of this court pursuant to 28 U.S.C. §1337, which confers actions arising under acts of Congress, regulating commerce in the District Court of the United States. This is an action authorized and instituted pursuant to Title IX of the Education Acts of 1972, as amended, 20 U.S.C. § 1681(a), *et seq.*

VENUE

2. The unlawful practices alleged in this Complaint were committed within this District. The Defendants reside or are located within this District and are subject to the jurisdiction of this Court. In accordance with 28 U.S.C. §1391, venue is appropriate in this Court.

PARTIES

3. The Plaintiff incorporates by reference all the above paragraphs as though fully set forth herein.
4. At all times concerned Plaintiff was a full-time student in Randolph Clay High School, a part of Randolph County School District.
5. Defendant Randolph County School District is a public school system and its main office is located at 1208 Andrew Street, Cuthbert, GA.
6. Defendant Randolph County School District is a recipient of federal fund.
7. Defendant Henry Cook was Chairman of the Randolph County Board of Education.
8. Defendant Robert Jenkins was the Superintendent of the Randolph County School District.
9. Defendant Lee Byrd was the Principal of Randolph Clay High School.

SUBSTANTIVE ALLEGATIONS

10. Randolph County School District, as a receipt of federal funds, is required to adopt and publish internal grievance procedures to promptly and equitably resolve complaints alleging discrimination based on sex.
11. Randolph County School District is required to establish and maintain a mechanism so that Randolph County School District is continually apprised of and evaluates possibly discriminatory policies and procedures to develop strategies to correct discrimination.
12. Randolph County School District is required to deal with sexual harassment proactively.
13. Randolph County School District is required to institute a policy similar to the one in the Federal Department of Education Regulations.
14. If a sexual harassment policy lacks the conduct that is prohibited, a school's policy will not be considered effective.
15. Randolph County School District's sexual harassment grievance procedures must include notice of the procedure, including where complaints are to be filed.
16. Randolph County School District's sexual harassment grievance procedures must include application of the procedure to complaints alleging harassment carried out by employees, other students, or third parties.
17. Randolph County School District's sexual harassment grievance procedures must include adequate, reliable and impartial investigation of complaints, including the opportunity to present witnesses and other evidence.

18. Randolph County School District's sexual harassment grievance procedures must include a designated and reasonably prompt timeframe for the major stages of the complaint process.
19. Randolph County School District's sexual harassment grievance procedures must include an assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others.
20. Randolph County School District's sexual harassment grievance procedures must be widely distributed.
21. Randolph County School District's sexual harassment grievance procedures must designate at least one employee to coordinate its efforts to comply with and carry out its Title IX responsibilities.
22. Randolph County School District's sexual harassment grievance procedures must notify all of its students and employees of the name, office address, and telephone number of the employee designated as the Title IX coordinator.
23. Randolph County School District's sexual harassment grievance procedures are not in compliance with Title IX.

FACTUAL ALLEGATIONS

24. The Plaintiff incorporates by reference all the above paragraphs as though fully set forth herein.
25. On or about the week of September 4, 2006, Plaintiff's mother, Regina Jackson, advised Defendant, James Byrd, that Anthony Davis, DelWayne

Price, and Courtney Green had sexually assaulted the Plaintiff by trying to look up her dress.

26. Mr. Brown, the assistant principal, confirmed that he heard of this incident.
27. Mr. Byrd advised that he could only give in school suspension to Anothony Davis, DelWayne Price, and Courtney Green.
28. Upon information and belief, prior to assaulting plaintiff, Tymisha Jordan, Courtney Green attempted to sexually assault Bridget Lashawn Thompson at Randolph Clay High School.
29. Upon information and belief, Courtney Green grabbed Ms. Thompson from behind and threw her into the boy's bathroom causing Ms. Thompson to hit her head.
30. Upon information and belief, Kenneth McElroy disrupted the incident and caused Courtney Green to run off.
31. Upon information and belief, Mayolena Jackson reported the incident to a teacher Jeffery Sexton.
32. Upon information and belief, Mr. Sexton did not allow Bridget Lashawn Thompson to report the incident until after class was finished.
33. Ms. Thompson attempted to report the incident to Mr. Cook, the middle school principal but Mr. Cook sent Ms. Thompson to Linda Porter, a counselor at the school.
34. Ms. Thompson reported her story to Ms. Porter.
35. Shirley Thompson, Bridget Thompson's mother, reported the incident to defendant, Lee Byrd, the high school principal, who advised Shirley Thompson

that Courtney Green was a special person and that there was nothing he could do.

36. Shirley Thompson, Bridget Thompson's mother, reported the incident to Defendant Henry Cook, Chairman of the Defendant Randolph County Board of Education, who advised Shirley Thompson as had Defendant Byrd, that nothing could be done.

37. Upon information and belief, the attack on Bridget Thompson was an attempted sexual assault that was disrupted by Kenneth McElroy.

38. Despite these prior attempts at sexual assault and sexual harassment, the Defendants chose not to address the danger of another sexual assault occurring in general and choose not to address the sexual harassment of Plaintiff Tymisha Jordan or that she may be sexually assaulted by Courtney Green.

39. On or about September 27, 2006, after the final school bell rung Anthony Davis, DelWayne Price, and Courtney Green lead Tymisah in to an unlocked auditorium where they subsequently raped her.

40. After the incident Tymisha went to the high school office and was escorted home by Jenera Threadcraft, a school employee.

41. That the school only informed Ms. Jackson that Tymisha missed the bus for home.

42. Upon information and belief the school had knowledge that Tymisha was assaulted in the school auditorium but did not report the incident to Ms. Jackson or the proper authorities.

43. That Tymisha exhibited signs that she was sexually assaulted when she arrived home on Wednesday, September 27, 2006, including withdrawal and a desire to “take a bath.”
44. That withdrawal and the desire to bathe or get clean are signs of a sexual assault.
45. That Tymisha’s actions were consistent with being raped.
46. That Ms. Jackson was only able to find out about the assault through Tymisha on Thursday, September 28, 2006.
47. That when Tymisha reported the sexual assault to her mother, Ms. Jackson immediately reported the assault and took Tymisha to the hospital for examination.
48. That the examination revealed abrasions and bruising consistent with rape.
49. That the Georgia Bureau of Investigations conducted the criminal investigation.
50. That the Georgia Bureau of Investigation found enough evidence to obtain an arrest warrant and, subsequently, to arrest Anothony Davis, DelWayne Price, and Courtney Green for performing a sexual act with force and against the will of another in violation of O.C.G.A. §§16-6-1 and 16-6-2-(b).
51. During the investigation Anothony Davis, DelWayne Price, and Courtney Green admitted to having sexual intercourse with Tymisha Jordan in the Randolph Clay High School Auditorium.
52. Anothony Davis was declared incompetenet and did not stand trial
53. DelWayne Price, and Courtney Green accepted a plea agreement and plead guilty to aggravated assault.

54. Upon information and belief, Defendants provided educational assistance and other forms of support to Anothony Davis, DelWayne Price, and Courtney Green.
55. That the Defendants made no offer to Plaintiff Jordan for a tutor or provide her with any sort of educational assistance.
56. Upon information and belief, Defendant Jenkins suggested to Plaintiff Jackson that the sexual assault might have happened at home.
57. Upon information and belief, Defendant Byrd reported to the investigating agent from the Georgia Bureau of Investigation that there were rumors that Plaintiff Jordan was abused at home and Defendant Byrd advised the investigating agent to speak with Plaintiff's teacher.
58. Upon information and belief, Plaintiff's teacher advised the investigating agent that there were such rumors but that the abuse had never been reported to law enforcement; the Department of Family Children Services, nor were the allegation entered in Plaintiff's individual education plan.
59. That teachers and school administrators are mandatory reporters of child abuse and neglect.
60. That no teacher or school administrator from Randolph County School District ever reported any alleged abuse of Plaintiff.
61. That Plaintiff was forced to withdrawal from Randolph County School District.
62. That the Defendants mailed Plaintiff Jordan's high school diploma to Plaintiff.

COUNT 1: TITLE IX AGAINST RANDOLPH COUNTY SCHOOLS

63. The Plaintiff incorporates by reference all the above paragraphs as though fully set forth herein.
64. The Defendant Randolph County School District had prior complaints of sexual harassment on its campus.
65. Defendant Randolph County School District had actual prior knowledge that Anothony Davis, DelWayne Price, and Courtney Green sexually harassed Plaintiff Tymisha Jordan.
66. Defendant Randolph County School District knew or should have known about prior complaints that Anothony Davis, DelWayne Price, and/or Courtney Green sexually harassed, assaulted or raped other students.
67. An official who had the authority to address the alleged discrimination and to institute corrective measures on the recipient's behalf had actual knowledge of the discrimination.
68. The sexual harassment was so severe and pervasive and objectively offensive that it systemically deprived the victim of access to the educational opportunities of the school.
69. The harassment was unwelcome and intimidating.
70. Defendant's deliberate indifference caused Plaintiff Jordan to undergo further harassment and to be liable and/or vulnerable to it.
71. Defendant Randolph County School District's actions were deliberately indifferent to the Plaintiff's complaints of sexual harassment.

72. The behavior so undermined and detracted from the Plaintiff Jordan's educational experience, that Plaintiff was effectively denied access to the Randolph County School District's resources and opportunities.

73. Because of Defendants' deliberate indifference to the sexual harassment, Plaintiff suffered a loss of educational opportunities.

74. As a direct and proximate result of Randolph County School District's violation of Plaintiff's Title IX rights, Plaintiff has sustained severe and permanent emotional and physical injury to her body and psyche. Moreover, Plaintiff has incurred medical expenses and other out-of-pocket expenses for the treatment of these injuries and expects to incur further such expenses into the indefinite future.

75. As a further direct and proximate result of the violation of plaintiff's Title IX rights by Randolph County School District's, Plaintiff has lost wages, has had her earnings capacity diminished, has experienced a loss of enjoyment of life and has otherwise suffered great pain of both body and mind.

COUNT TWO: VIOLATION OF 42 U.S.C. 1985 AND 42 U.S.C. 1986 BY

ALL DEFENDANTS

76. The Plaintiffs incorporate by reference all the above paragraphs as though fully set forth herein.

77. Defendants' willful and discriminatory practices in conspiring to deprive Plaintiff Jordan of equal protection of the laws were in violation of Plaintiff Jordan's civil rights based upon gender as secured by 42 U.S.C. 1985.

78. Defendants' unlawful and discriminatory practices, despite their actual knowledge of Anothony Davis, DelWayne Price, and/or Courtney Green's habit and pattern of abuse of female students and despite Defendants' having the power to prevent and aid in preventing commission of the same upon Plaintiff Jordan, and neglect and refusal to do so violated Plaintiff Jordan's civil rights under 42 U.S.C. 1986, which prohibits neglect to prevent a conspiracy to deny individuals their civil rights.

79. Plaintiff Jordan suffered damages for which the Defendants are liable to Plaintiff Jordan.

COUNT THREE: PUNITIVE DAMAGE CLAIMS AGAINST ALL DEFENDANTS

80. The Plaintiffs incorporate by reference all the above paragraphs as though fully set forth herein.

81. Defendants actions as described herein, rise to that level of willful misconduct, malice, recklessness, wantonness, oppression, and/or that entire want of care which raises the presumption of conscious indifference to the consequences.

82. As a result of the actions of the Defendants, Plaintiffs pray that punitive damages be assessed against the Defendants in an amount to be determined by the enlightened conscience of a reasonable jury.

83. Plaintiff Jordan further prays that punitive damages be assessed against Defendants pursuant to and under 42 U.S.C. 1983 and state law.

COUNT FOUR: JOINT AND SEVERAL LIABILITY AS TO ALL DEFENDANTS

84. The Plaintiffs incorporate by reference all the above paragraphs as though fully set forth herein.

85. The actions of all the Defendants each played a substantial role and concurred in causing the injuries described herein to the Plaintiffs.

86. Defendants are joint tortfeasors and wrongdoers, and joint obligors and are jointly and severally liable to the Plaintiffs for all damages set forth herein, to the extent allowed by law as to various Defendants under the several counts above.

WHEREFORE, Plaintiff prays for the following relief:

1. That the Court adjudicate and declare that the conduct of Randolph County Schools and its practices and policies complained of herein violated the Plaintiff's rights as secured by Title IX;

2. That the Court grant a permanent injunction enjoining Defendant Randolph County Schools, its officers, agents, employees, attorneys, assigns and other representatives, from engaging in any practice or policy that discriminates against any student on the basis of sex;

3. That Defendants be held liable under Title IX of the Education Acts of 1972, as amended, 20 U.S.C. § 1681(a), et seq., on all claims;

4. That the Defendants be held liable for violation of Plaintiff Jordan's civil rights based upon gender as secured by 42 U.S.C. 1985 and 42 U.S.C. 1986.

5. That Plaintiff be awarded compensatory damages against Defendants for their acts, for an amount to be proven at trial, sufficient to compensate Plaintiff and make her whole for her loss of good health, mental anguish and loss of enjoyment of life, medical and psychological expenses both past and future, lost wages, impaired earning capacity and other compensatory damages;

6. That an award of punitive damages is assessed against Defendants for their acts, in an amount to be proven at trial, sufficient to deter such willful and malicious conduct in the future;

7. That the Plaintiffs recovers their necessary expenses for litigation, including reasonable attorneys' fees;

8. That the Plaintiff recover pre-judgment interest for all general and specific damages sustained by Plaintiff;

9. For any further and additional relief which this Court deems proper and just.

The undersigned hereby certifies and affirms this complaint complies with Rule 11 of the Federal Rules of Civil Procedure.

Respectfully submitted the 14th day of August, 2009.

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