

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO  
1/8/2024  
JEFFREY P. COLWELL, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 23-cv-3307-MDB  
(To be supplied by the court)

K.J., Plaintiff

Jackson, Leah, B., Plaintiff

v.

**Jury Trial requested:**  
(please check one)  
☒ Yes ☐ No

Academy School District 20 Board of Education,

Academy School District 20,

Pine Creek High School, Defendant(s).

*(List each named defendant on a separate line. If you cannot fit the names of all defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names of the defendants listed in the above caption must be identical to those contained in Section B. Do not include addresses here.)*

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**COMPLAINT**

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**NOTICE**

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

**Plaintiff need not send exhibits, affidavits, grievances, witness statements, or any other materials to the Clerk's Office with this complaint.**

**A. PLAINTIFF INFORMATION**

*You must notify the court of any changes to your address where case-related papers may be served by filing a notice of change of address. Failure to keep a current address on file with the court may result in dismissal of your case.*

K.J., 11076 Falling Snow Lane, Colorado Springs, CO. 80908

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(Name and complete mailing address)

719.464.4243, leah.mjackson@outlook.com

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(Telephone number and e-mail address)

Jackson, Leah, B., 11076 Falling Snow Lane, Colorado Springs, CO. 80908

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(Name and complete mailing address)

719.464.4243, leah.mjackson@outlook.com

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(Telephone number and e-mail address)

**B. DEFENDANT(S) INFORMATION**

*Please list the following information for each defendant listed in the caption of the complaint. If more space is needed, use extra paper to provide the information requested. The additional pages regarding defendants should be labeled "B. DEFENDANT(S) INFORMATION."*

Defendant 1: Academy School District 20 Board of Education, 1110 Chapel Hills Drive, Colorado Springs, CO. 80920

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(Name and complete mailing address)

719.234.1215, schoolboard@asd20.org

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(Telephone number and e-mail address if known)

Defendant 2: Academy School District 20, 1110 Chapel Hills Drive, Colorado Springs, CO. 80920

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(Name and complete mailing address)

719.234.1200, email address unknown

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(Telephone number and e-mail address if known)

Defendant 3: Pine Creek High School, 10750 Thunder Mountain Avenue, Colorado Springs, CO. 80908

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(Name and complete mailing address)

719.234.2600, email address unknown

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(Telephone number and e-mail address if known)

### C. JURISDICTION

Identify the statutory authority that allows the court to consider your claim(s): (check one)

  X   Federal question pursuant to 28 U.S.C. § 1331 (claims arising under the Constitution, laws, or treaties of the United States)

List the specific federal statute, treaty, and/or provision(s) of the United States Constitution that are at issue in this case.

Americans with Disabilities Act, 42 U.S.C. 12133

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Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794

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Effective Communication for Individuals with Disabilities, 45 C.F.R. 92.102

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Child Abuse Reporting 42 U.S.C. 13031

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Destruction, Alteration, or Falsification of Records in Federal Investigations 18 U.S.C. 1519

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       Diversity of citizenship pursuant to 28 U.S.C. § 1332 (a matter between individual or corporate citizens of different states and the amount in controversy exceeds \$75,000)

Plaintiff is a citizen of the State of Colorado.

If Defendant 1 is an individual, Defendant 1 is a citizen of N/A.

If Defendant 1 is a corporation,

Defendant 1 is incorporated under the laws of Colorado (name of state or foreign nation).

Defendant 1 has its principal place of business in Colorado (name of state or foreign nation).

*(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)*

Plaintiff Jackson 3



**D. STATEMENT OF CLAIM(S)**

*State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "D. STATEMENT OF CLAIMS."*

CLAIM ONE: Americans with Disabilities Act, 42 U.S.C. 12133

Supporting facts:

**See additional paper attached.**

**E. REQUEST FOR RELIEF**

*State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "E. REQUEST FOR RELIEF."*

**See additional paper attached.**

**F. STATEMENT OF CLAIM(S)**

*State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "F. STATEMENT OF CLAIMS."*

CLAIM TWO: Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794

Supporting facts:

**See additional paper attached.**

**G. REQUEST FOR RELIEF**

*State the relief you are requesting or what you want the court to do. If additional space is needed*

*to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF."*

**See additional paper attached.**

#### **H. STATEMENT OF CLAIM(S)**

*State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "H. STATEMENT OF CLAIMS."*

CLAIM THREE: Effective Communication for Individuals with Disabilities, 45 C.F.R. 92.102

Supporting facts:

**See additional paper attached.**

#### **I. REQUEST FOR RELIEF**

*State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "I. REQUEST FOR RELIEF."*

**See additional paper attached.**

#### **J. STATEMENT OF CLAIM(S)**

*State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "J. STATEMENT OF CLAIMS."*

CLAIM FOUR: Child Abuse Reporting, 42 U.S.C. 13031

Plaintiff Jackson 5



Supporting facts:

**See additional paper attached.**

**K. REQUEST FOR RELIEF**

*State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "K. REQUEST FOR RELIEF."*

**See additional paper attached.**

**L. STATEMENT OF CLAIM(S)**

*State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "L. STATEMENT OF CLAIMS."*

CLAIM FIVE: Destruction, Alteration, or Falsification of Records in Federal Investigations 18 U.S.C. 1519

Supporting facts:

**See additional paper attached.**

**M. REQUEST FOR RELIEF**

*State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "M. REQUEST FOR RELIEF."*

**See additional paper attached.**

**F. PLAINTIFF'S SIGNATURE**

I declare under penalty of perjury that I am the plaintiff in this action, that I have read this complaint, and that the information in this complaint is true and correct. *See* 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Under Federal Rule of Civil Procedure 11, by signing below, I also certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

K.J.

\_\_\_\_\_  
(Plaintiff's signature)

12/15/2023

\_\_\_\_\_  
(Date)

  
\_\_\_\_\_  
(Plaintiff's signature)

12/15/2023

\_\_\_\_\_  
(Date)

(Revised February 2022)

## **BACKGROUND FACTS**

K.J. (“Plaintiff”), Leah Jackson (“Ms. Jackson” or “Mother”)

Defendants (“Defendants”) include Academy School District 20 Board of Education, Academy School District 20, Pine Creek High School

1. At the relevant time, Plaintiff was a student at Defendant Pine Creek High School (“PCHS”).
2. Plaintiff is a disabled individual as defined within the Americans with Disabilities Act (“ADA”). The ADA definition provides that an individual is disabled for purposes of the Act when a person has an impairment that “substantially limits a major life activity,” 42 U.S.C. 12102(1). Major life activities, “Include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working,” and Major bodily functions, “Operation of major bodily function including neurological and brain.”
3. Plaintiff’s disabilities are Intellectual Disability (“IDD”), Autism Spectrum Disorder (“ASD”), Apraxia of Speech, Post-Traumatic Stress Disorder (“PTSD”); the Plaintiff is NON-VERBAL.
4. Plaintiff’s disabilities substantially impair major life activities such as his ability to care for himself, perform manual tasks, hear, walk, stand, lift, bend, learn, read, concentrate, think, communicate, and work.
5. Plaintiff’s disabilities substantially impair cognitive functioning resulting in Plaintiff to be easily taken advantage of.
6. Due to Plaintiff’s disabled status, the Plaintiff has been the subject of an Individualized Education Program (“IEP”) since he began school.



7. With reasonable accommodations, services, and modifications, such as Paraprofessional (“para”) support and a modified curriculum, Plaintiff was able to access, benefit, and participate in his education throughout his schooling and while at PCHS.
8. Plaintiff enrolled at PCHS, which began in the 10<sup>th</sup> grade (2020-2021 academic year) and remained enrolled at PCHS through his senior year (2022-2023 academic year).
9. PCHS provided accommodations, services, and modifications throughout Plaintiff’s enrollment at PCHS.
10. As a result of the Plaintiff attending PCHS for years 2020-2023, from then (2020) and at the beginning of the 2022-2023 academic year, PCHS was fully aware of Plaintiff’s disabilities and need for reasonable accommodations, services, and modifications.
11. On or about May 25, 2020, before Plaintiff joined the PCHS football team, Plaintiff’s Mother contacted PCHS’s athletic director and coaching staff to make them aware of the Plaintiff’s disabilities and inquired about the accommodations, services, and modifications that could be put in place for the Plaintiff so he could participate on the PCHS football team.
12. On or about May 26, 2020, the PCHS football team’s Coach Liaison and PCHS Teacher, Angela Chatman (“Angie” or “Ms. Chatman”), informed Plaintiff’s Mother that the PCHS football team does not cut anyone, and Ms. Chatman added Mother to the PCHS football team information distribution list.
13. Plaintiff participated on the football team beginning the 2020-2021 academic year.
14. Plaintiff received substantial benefit from participating on the PCHS football team by way of encouraging the Plaintiff to socialize, helping him build positive and meaningful

relationships, and supported the Plaintiff with trying to speak one and two-word phrases.

During Plaintiff's time at PCHS, football became one of his favorite activities.

15. On or about January 12, 2022, PCHS football coaches and staff begin to plan for a scheduled out-of-state, to Las Vegas, Nevada, football game that necessitated travel and housing for players and staff. This football game was scheduled for and took place on or about August 26, 2022 at 1900 at Las Vegas High School. PCHS football team and coaches departed from Colorado to Las Vegas, Nevada on or about August 25, 2022.
16. On or about and between January 12, 2022 and July 12, 2022, Plaintiff's Mother did not receive any correspondence from PCHS football coaches, coach liaison, or staff asking if the Plaintiff could attend the PCHS football team field trip to Las Vegas, Nevada.
17. On or about July 13, 2022, Mother received an email from Ms. Chatman, asking if Plaintiff's Mother needed more time to pay for Plaintiff's expenses related to the out-of-state PCHS football game to Las Vegas, Nevada.
18. On or about July 13, 2022, Plaintiff's Mother responded to Ms. Chatman by reporting she did not know the Plaintiff was on the list to attend the out-of-state PCHS football team game and asked Ms. Chatman if the Plaintiff would be supervised by the PCHS football coaches.
19. On or about July 13, 2022, Plaintiff's Mother received correspondence from Ms. Chatman stating the Plaintiff would be supervised by the coaches.
20. Due to Ms. Chatman advising the Plaintiff was going to be supervised by the coaches, Plaintiff's Mother allowed the Plaintiff to attend the PCHS football team trip to Las Vegas, Nevada.

21. On or about July 13, 2022, Lori Roy (“Ms. Roy”), then Vice President of the PCHS Football Booster Club (“Club”)—which was organizing the trip on behalf of PCHS football and collaboratively with PCHS staff—became aware of PCHS’s failure to comply with District and Colorado High School Activities Association (“CHSAA”) field trip policies.
22. On or about July 19, 2022, Ms. Roy raised her concerns with the Club’s voting members, who worked collaboratively with PCHS coaches and staff, who dismissed Ms. Roy’s concerns.
23. Following the Club’s failure to take Ms. Roy’s concerns seriously, she contacted the Academy School District 20 (“District”) and Academy School District 20 Board of Education (“Board” or “BOE”) to communicate her concerns of PCHS’s failure to comply with District and CHSAA field trip policies.
24. As part of that communication, Ms. Roy submitted an anonymous report to the District, concerning PCHS and the Club’s activities relating to failing to comply with District and CHSAA fieldtrip policies.
25. The District did not keep Ms. Roy’s report anonymous and forwarded Ms. Roy’s report to PCHS Principal and PCHS CHSAA Representative, Tracie Cormaney (“Principal Cormaney”), who personally contacted Ms. Roy about the report. Principal Cormaney also directly involved Ms. Chatman.
26. The District facilitated a meeting between PCHS and Ms. Roy, but otherwise relied on the involvement of the Club—a non-profit—as a basis for failing to take further action.



27. On or about July 20, 2022, Ms. Roy informed District Assistant Superintendent Jim Smith (“Dr. Smith”) that PCHS desired to exclude Plaintiff from the trip and had not considered special needs accommodations.
28. On or about July 24, 2022, Ms. Roy contacted the District specifically regarding special needs accommodations for players on the PCHS football team.
29. On or about July 28, 2022, Principal Cormaney informed Ms. Roy that the PCHS coaching staff reviewed documentation of students with special needs to ensure they were properly addressed. However, no accommodations were adopted.
30. On or about August 8, 2022, Ms. Roy submitted a report of these issues, among others, to the following members of the BOE: Aaron Salt, Nicole Konz, William Sullivan, Heather Cloninger, Will Temby, and Tom LaValley.
31. On or about August 9, 2022, the BOE acknowledged receipt of Ms. Roy’s report.
32. The BOE did not take any action to address Ms. Roy’s concerns involving PCHS and District violations of district policies CHSAA field trip policies.
33. On August 12, 2022, Plaintiff’s Mother was contacted by Ms. Chatman stating the Plaintiff would be chaperoned by the PCHS Head Football Coach and PCHS Teacher, Todd Miller (“Mr. Miller”).
34. As a result of Ms. Chatman’s communications, regarding the Plaintiff’s supervision and chaperone arrangements, Plaintiff’s Mother believed that Mr. Miller, as Plaintiff’s chaperone, would be sharing Plaintiff’s hotel room. Mother was unaware that Plaintiff would be sharing a room with other students, unsupervised by Mr. Miller or any PCHS employee.

35. Housing decisions were made by the coaching staff prior to any consideration of special needs, and Plaintiff roomed with other minor students without adult supervision which was contrary to the arrangement as understood by Plaintiff's Mother.
36. On August 25, 2022, the Plaintiff traveled with the PCHS football team, coaches, and staff, departing to and arriving in Las Vegas, Nevada.
37. Approximately 54 football players, 16 coaches, and two PCHS administrators, Principal Cormaney and PCHS Assistant Principal and Special Education Coordinator Jodi "Kathleen" Raphael ("Ms. Raphael"), attended this out-of-state football game field trip.
38. PCHS football team stayed in a hotel located in Henderson, Nevada.
39. PCHS fundamentally failed to accommodate Plaintiff by way of failing to provide accommodations in the form of appropriate supervision and chaperone, to support the Plaintiff with equal access to extracurricular activities and safety, to the extent that Plaintiff could benefit from such activities while on this PCHS football team field trip.
40. On or about August 26, 2022, approximately between 1100 – 1400, Plaintiff was subject to harassment based on sex and nonconsensual sexual contact and display; unlawful sexual misconduct by two student football player roommates ("student suspects").
41. Plaintiff was not only subject to harassment based on sex and nonconsensual sexual contact and display by the student suspects, during this unlawful sexual misconduct, the student suspects made two separate videos and one picture of the Plaintiff, and disseminated the videos and picture to a group chat.
42. Mr. Miller reported becoming aware of the unlawful sexual misconduct committed against Plaintiff pregame.

43. Mr. Miller did not ask Plaintiff if he required medical attention for the unlawful sexual misconduct committed against him.

44. Mr. Miller did not immediately implement safety measures to prevent the Plaintiff from being subjected to further abuse and harm.

45. Mr. Miller did not immediately notify Plaintiff's Mother that Plaintiff had been victimized by way of unlawful sexual misconduct.

46. Mr. Miller did not immediately make a report, for *suspected* child sexual abuse, with the Department of Human Services ("DHS") as required by Federal mandatory reporting laws on child abuse and neglect, regarding the unlawful sexual misconduct committed against Plaintiff.

47. Mr. Miller did not immediately make a report, for *suspected* child sexual abuse, with the Henderson Police Department ("HPD") as required by Federal mandatory reporting laws on child abuse and neglect, regarding the unlawful sexual misconduct committed against Plaintiff.

48. PCHS Football Assistant Coach and Teacher Matthew Wibbels ("Mr. Wibbels") reported becoming aware of the unlawful sexual misconduct committed against Plaintiff, pregame, approximately one-hour before the game.

49. Mr. Wibbels did not immediately implement safety measures to prevent the Plaintiff from being subjected to further abuse and harm.

50. Mr. Wibbels did not ask Plaintiff if he required medical attention for the unlawful sexual misconduct committed against him.

51. Mr. Wibbels did not immediately notify Plaintiff's Mother that Plaintiff had been victimized by way of unlawful sexual misconduct.



52. Mr. Wibbels did not immediately make a report, for suspected child sexual abuse, with the Department of Human Services (“DHS”) as required by Federal mandatory reporting laws on child abuse and neglect, regarding the unlawful sexual misconduct committed against Plaintiff.
53. Mr. Wibbels did not immediately make a report, for suspected child sexual abuse, with the Henderson Police Department (“HPD”) as required by Federal mandatory reporting laws on child abuse and neglect, regarding the unlawful sexual misconduct committed against Plaintiff.
54. Ms. Chatman reported becoming aware of the unlawful sexual misconduct committed against Plaintiff, pregame, at approximately 1715.
55. Ms. Chatman did not ask Plaintiff if he required medical attention for the unlawful sexual misconduct committed against him.
56. Ms. Chatman did not immediately implement safety measures to prevent the Plaintiff from being subjected to further abuse and harm.
57. Ms. Chatman did not immediately notify Plaintiff’s Mother that Plaintiff had been victimized by way of unlawful sexual misconduct.
58. Mr. Chatman did not immediately make a report, for suspected child sexual abuse, with the Department of Human Services (“DHS”) as required by Federal mandatory reporting laws on child abuse and neglect, regarding the unlawful sexual misconduct committed against Plaintiff.
59. Ms. Chatman did not immediately make a report, for suspected child sexual abuse, with the Henderson Police Department (“HPD”) as required by Federal mandatory reporting

laws on child abuse and neglect, regarding the unlawful sexual misconduct committed against Plaintiff.

60. Principal Cormaney reported being aware of the unlawful sexual misconduct committed against Plaintiff, pregame, at approximately 1715.

61. Principal Cormaney did not ask Plaintiff if he required medical attention for the unlawful sexual misconduct committed against him, nor did she instruct staff to.

62. Principal Cormaney did not immediately notify Plaintiff's Mother that Plaintiff had been victimized by way of unlawful sexual misconduct, nor did she instruct staff to.

63. Principal Cormaney did not immediately implement safety measures to prevent the Plaintiff from being subjected to further abuse and harm, nor did she instruct staff to.

64. Principal Cormaney did not immediately make a report, for suspected child sexual abuse, with the Department of Human Services ("DHS") as required by Federal mandatory reporting laws on child abuse and neglect regarding, the unlawful sexual misconduct committed against Plaintiff, nor did she instruct staff to.

65. Principal Cormaney reported a mandatory report was made (# 22353026).

66. Principal Cormaney's report of making a mandatory report (# 22353026), is not a mandatory report number, it is a call for service number.

67. The call for service number (# 22353026) was initiated after Safe-2-Tell reports were made by concerned parents.

68. Call for service number (# 22353026) was not initiated by Principal Cormaney or PCHS employees.

69. Principal Cormaney did not immediately make a report, for suspected child sexual abuse, with the Henderson Police Department ("HPD") as required by Federal mandatory

reporting laws on child abuse and neglect regarding, the unlawful sexual misconduct committed against Plaintiff, nor did she instruct staff to.

70. Due to PCHS's Mr. Miller, Mr. Wibbels, Principal Cormaney, and Ms. Chatman's failure to take immediate action to protect the Plaintiff from further abuse and harm, to report the unlawful sexual misconduct to Plaintiff's Mother, DHS, or HPD, while in Henderson, Nevada, Plaintiff and Plaintiff's Mother was unable to assert their civil rights and liberties, and seek prosecution due to subject matter jurisdiction.

71. As a result, Plaintiff was not able to obtain justice after being victimized by way of unlawful sexual misconduct.

72. PCHS's failure to make mandatory reports and initiate and implement immediate safety measures, Plaintiff was exposed to, not only further abuse and harm, but neglect by PCHS.

73. Neglect resulting from Mr. Miller's, Mr. Wibbels, Principal Cormaney's, and Ms. Chatman's failure to take immediate action to see if Plaintiff needed medical attention, or remove the student suspects from the hotel room, or implement other immediate safety measures, or supervise and chaperone Plaintiff as Plaintiff's Mother was assured by Ms. Chatman.

74. Neglect resulting from Mr. Miller's, Mr. Wibbels, Principal Cormaney's, and Ms. Chatman's failure to make mandatory reports as required by Federal law.

75. Plaintiff has been significantly harmed by Mr. Miller's, Mr. Wibbels, Principal Cormaney's, and Ms. Chatman's failure to act by way of neglect.



76. On or about and between August 27, 2022 – August 29, 2022, PCHS and the District received multiple independent anonymous reports (Safe-2-Tell) regarding the Plaintiff being victimized by way of unlawful sexual misconduct.
77. On or about August 27, 2022, the PCHS football team and coaches returned to Colorado Springs.
78. When Plaintiff's Mother picked the Plaintiff up from the airport, Mr. Miller, Mr. Wibbels, Ms. Chatman, Principal Cormaney, other PCHS football coaches and employees continued to fail to report the Plaintiff was victimized by way of unlawful sexual misconduct, to Plaintiff's Mother.
79. On or about August 29, 2022, Mr. Miller submitted a statement to the PCHS regarding the Plaintiff being victimized by way of unlawful sexual misconduct; approximately three (3) days after the unlawful sexual misconduct was committed against Plaintiff.
80. PCHS reported beginning a two-day investigation; Plaintiff's Mother was not notified.
81. Principal Cormaney reported that a formal investigation was completed on the Monday (August 29, 2022) after the PCHS football team, coaches, and employees returned to Colorado Springs.
82. On or about August 29, 2022, PCHS reported initiating an investigation into the unlawful sexual misconduct committed against Plaintiff.
83. On or about August 29, 2022, when Plaintiff returned to PCHS, the video(s) had spread to the entire student body, as evidenced by Plaintiff being laughed at, extending Plaintiff's harm and injury.

84. On or about August 30, 2022, PCHS's, then Dean Brian Martin ("Mr. Martin") contacted Plaintiff's Mother, by phone, and requested a meeting to discuss the unlawful sexual misconduct committed against Plaintiff.
85. Mr. Martin reported to Plaintiff's Mother that she was asked to join the Plaintiff at this meeting due to the Plaintiff being NON-VERBAL, and Mr. Martin and Ms. Raphael wanted to hear the Plaintiff's side of the story.
86. On or about August 31, 2022, the PCHS School Resource Officer, Officer Zakary Gallegos ("Mr. Gallegos"), documented a call for service (# 22353026) after receiving multiple Safe-2-Tell reports about the Plaintiff being victimized by way of unlawful sexual misconduct.
87. Mr. Gallegos reported that he allowed the school to conduct their portion of the investigation first to determine if this was in fact a criminal event.
88. On or about September 1, 2022, Plaintiff and Plaintiff's Mother met with Mr. Martin and Ms. Raphael.
89. Ms. Raphael was one of two (2) administrators who attended the football field trip to Las Vegas, Nevada with the PCHS football team.
90. During this meeting, Mr. Martin shared details about the unlawful sexual misconduct that was committed against Plaintiff, with the Plaintiff's Mother.
91. During this meeting, Mr. Martin asked the Plaintiff how the unlawful sexual misconduct committed against him made him feel, if he had friends on the football team, and if the Plaintiff wanted to remain on the football team.

92. Mr. Martin’s questioning to the Plaintiff was inappropriate because the questions were not focused on what happened to Plaintiff while Plaintiff was victimized by way of unlawful sexual misconduct.
93. During this meeting, accommodations and services, such as a qualified speech-to-speech transliterator expert or other qualified professional or augmentative alternative communication (“AAC”) device, were not provided to the Plaintiff for the Plaintiff to be able to effectively communicate what happened to him during victimization.
94. During this meeting, questioning was not conducted by a qualified speech-to-speech transliterator expert or other qualified professional who could effectively communicate with Plaintiff, to the extent that Mr. Martin and Ms. Raphael could learn what happened to Plaintiff and hear Plaintiff’s side of the story.
95. As a result, the Plaintiff was unable to report what happened to him as the victim.
96. By Mr. Martin and Ms. Raphael failing to provide accommodations and services for the purposes of interview, Mr. Martin and Ms. Raphael violated Federal law regarding effective communication for persons with disabilities.
97. Further, Mr. Martin’s and Ms. Raphael’s failure to provide accommodations and services, during interview, presents as discriminatory on the basis of the Plaintiff’s disabilities.
98. Discriminatory on the basis of Plaintiff’s disabilities, according to of Federal law which states, no qualified individual with a disability in the United States (“U.S.”) shall, solely by reason of disability, be excluded from the participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

99. Plaintiff was discriminated against as evidenced by effective communication accommodations and services not being provided to the Plaintiff during interview (activity) which caused Plaintiff to not be able to meaningfully participate in the interview (activity), so he could effectively communicate and report what happened to him during victimization.
100. Plaintiff's Mother was asked to join the meeting because Plaintiff is NON-VERBAL, as stated by Mr. Martin.
101. Plaintiff was discriminated against on the basis of his disabilities by way of being excluded from effectively participating in interview (activity) due to Mr. Martin and Ms. Raphael willfully failing to provide effective communication accommodations.
102. Plaintiff was discriminated against by way of being excluded from participating in interview (activity) solely on the basis of his disabilities, specifically, Plaintiff being NON-VERBAL.
103. Mr. Martin and Ms. Raphael's decision to willfully deny Plaintiff accommodations and services to effectively communicate in interview, was a violation of Plaintiff's civil rights and liberties as afforded by Federal law.
104. Inviting Plaintiff's Mother to interview, for the sole purpose of communication with Plaintiff, does not excuse PCHS's Federal obligation to provide accommodations and services to Plaintiff for effective communication.
105. Plaintiff was discriminated against on the basis of his disabilities as evidenced by effective communication accommodations not provided to the Plaintiff during interview which caused the Plaintiff to be unable to and excluded from participating during the



interview, to the extent Mr. Martin and Ms. Raphael could learn Plaintiff's side of the story.

106. Due to Plaintiff being discriminated against, on the basis of his disabilities, Plaintiff was denied the benefit justice.

107. Due to the Plaintiff being discriminated against, on the basis of his disabilities, PCHS has caused significant harm to the Plaintiff as evidenced by PCHS conducting an investigation that was partial and did not result in finding out if the Plaintiff was sexually assaulted.

108. At the end of this meeting, held on or about September 1, 2022, Mr. Martin and Ms. Raphael informed the Plaintiff's Mother a Title IX investigation would be conducted and she would receive a findings report of the Title IX investigation within ninety (90) days.

109. Mother did not receive the Title IX findings report in ninety (90) days.

110. It was not until, on or about, December 10, 2022, Plaintiff's Mother received the initial Title IX findings report ("Findings Report").

111. Even though Principal Cormaney reported a formal investigation was completed the Monday after the football team returned to Colorado Springs, Mr. Martin reported to the Plaintiff's Mother that a Title IX investigation was initiated at the time of this meeting, and according to Principal Cormaney, the investigation had already concluded.

112. The initial Title IX investigation was conducted by Mr. Martin, PCHS Assistant Principal Joshua Trahan ("Mr. Trahan"), and PCHS Assistant Principal Jill Talbot ("Ms. Talbot").

113. According to the Findings Report, PCHS staff reported Plaintiff was video recorded by each of the two student suspects, while allegedly masturbating in the hotel room.
114. Student suspects disseminated the recorded videos to a group chat.
115. PCHS employees mentioned a photo was taken of the Plaintiff during the time the videos were made.
116. Two videos and one photo was made, by the two student suspects, of the Plaintiff while Plaintiff was allegedly masturbating.
117. The videos spread quickly among the PCHS football players, via group chat.
118. Some PCHS football players reported the videos to their parents, and the parents reported the unlawful sexual misconduct to PCHS employees, via in-person and Safe-2-Tell reports.
119. PCHS employees reported Plaintiff was allegedly fully covered under bed sheets at the time of victimization, and allegedly, neither the videos or photo(s) displayed any genitalia.
120. PCHS employees reported, no PCHS employees saw the videos or photo of the Plaintiff.
121. PCHS employees reported interviewing multiple student witnesses and the two student suspects.
122. PCHS staff reported the two student suspects admitted to video recording the Plaintiff and distributing the videos to a group chat.

123. The student suspects made two separate videos and took one photo of the Plaintiff that was disseminated throughout a group chat and eventually reached the entire PCHS student body.

124. Mr. Wibbels spoke with one of the student suspects before the PCHS football game and instructed the student suspect to destroy the evidence (video(s)) before an initial investigation was conducted by PCHS employees.

125. The videos were allegedly destroyed before any adult responded to the incident.

126. As a result, no record of what actually occurred, other than the student suspects' own admissions to the crime, was investigated.

127. Mr. Wibbels instructing one of the student suspects to destroy the evidence is violation of Federal law.

128. Federal law indicates, people do not have the right to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States ("U.S.").

129. Mr. Wibbels decision to willfully instruct one of the student suspects to destroy the video that he made, puts Mr. Wibbels and PCHS as a whole in violation of Federal law, leading to an obstruction of justice.

130. Mr. Wibbels and PCHS as a whole, willfully acted with intent to cover up this unlawful sexual misconduct committed against Plaintiff as evidenced by their failure to immediately notify Mother.

131. Mr. Wibbels, Mr. Miller, Ms. Chatman, Principal Cormaney, and PCHS as a whole, willfully acted with intent to cover up this unlawful sexual misconduct committed against Plaintiff as evidenced by their failure to immediately see if Plaintiff required medical attention and implement immediate safety measures.
132. Mr. Wibbels, Mr. Miller, Ms. Chatman, and Principal Cormaney, and PCHS as a whole, willfully acted with the intent to cover up this unlawful sexual misconduct committed against Plaintiff as evidenced by their failure to immediately report such misconduct to DHS and as required by Federal law.
133. Mr. Wibbels, Mr. Miller, Ms. Chatman, and Principal Cormaney, and PCHS as a whole, willfully acted with the intent to cover up this unlawful sexual misconduct committed against Plaintiff as evidenced by their failure to immediately report such misconduct to HPD and as required by Federal law.
134. Mr. Wibbels, Ms. Raphael, Mr. Miller, Ms. Chatman, and Principal Cormaney, and PCHS as a whole, willfully acted with the intent to cover up this unlawful sexual misconduct committed against Plaintiff with the intent to alter and influence the outcome of the Title IX investigation.
135. Mr. Wibbels, Ms. Raphael, Mr. Miller, Ms. Chatman, and Principal Cormaney, and PCHS as a whole, caused multiple investigations of this unlawful sexual misconduct committed against the Plaintiff, to be influenced as evidenced by Mr. Wibbels willfully instructing the evidence to be destroyed and no one advising Mr. Wibbels that destroying evidence is a violation of Federal law.
136. Due to PCHS failing to act and adhere it Federal law, regarding mandatory reporting, effective communication, and not having the right to destroy evidence with the

intent to cover up this unlawful sexual misconduct against Plaintiff, is a violation of Plaintiff's civil rights and liberties afforded by Federal law.

137. Due to PCHS willfully failing to act and adhere to Federal laws, Plaintiff has been subjected to further significant harm by way of Plaintiff not receiving justice for the unlawful sexual misconduct committed against him.

138. Due to PCHS willfully failing to act and adhere to Federal laws, Plaintiff has been subjected to further significant harm resulting, by way of Plaintiff and Plaintiff's Mother not being able to assert their rights, as afforded by Federal law.

139. Plaintiff and Plaintiff's Mother civil rights and liberties as citizens of the United States ("U.S."), were willfully taken by PCHS.

140. Plaintiff and Plaintiff's Mother civil rights and liberties as citizens of the United States ("U.S."), were willfully taken by the District and BOE who failed to take action when pertinent information was provided to them before and after this unlawful sexual misconduct was committed against the Plaintiff, and during investigations.

141. The District and BOE took no corrective action against PCHS for violating Federal law and taking away Plaintiff and Plaintiff's Mother's civil rights and liberties.

142. The PCHS Findings Report disposition founded the two student suspects guilty of harassment against Plaintiff.

143. PCHS Findings Report did not document what type of harassment was committed against the Plaintiff, even though it was unlawful and sexual in nature.

144. PCHS Findings Report indicate interim measures were in place, to include access to counselor and case manager, however, there is no evidence that Plaintiff would benefit



from such access given the severity of the unlawful sexual misconduct committed against the Plaintiff.

145. Further, PCHS case manager and counselors did not attend the PCHS football field trip.

146. No immediate safety measures were implemented, at the time or after the Plaintiff was victimized, to prevent the Plaintiff from being subjected to additional harm or injury.

147. As a result, after the game, Plaintiff was forced to continue to stay in the same hotel room with the student suspects who victimized him; the night of the unlawful sexual misconduct.

148. No immediate appropriate consequences were enforced upon the two student suspects by PCHS coaches or employees.

149. Student suspects were permitted to play in the football game that evening, after they had victimized Plaintiff.

150. One student suspect was allegedly suspended for five (5) days and football play time was decreased, however, this student suspect returned to school before suspension was completed and football play time was not impacted.

151. PCHS reported the videos were seen by 35 of the 54 football players, however, provided no objective evidence that supports this claim.

152. PCHS did not interview all the football players or parents, who had seen the videos and pictures or who were aware of the unlawful sexual misconduct committed against Plaintiff, who traveled to Las Vegas, Nevada.

153. PCHS reported interviewing approximately five (5) to eight (8) of the, at minimum, 54 football players who attended the Las Vegas, Nevada field trip.

154. PCHS did not report why they selected the students they did to interview about this unlawful sexual misconduct committed against Plaintiff.
155. PCHS did not report why they failed to interview all witnesses, football players and parents, about this unlawful sexual misconduct committed against Plaintiff.
156. PCHS reported students, external from the group chat, did not see the video, however, PCHS provided no objective evidence of that supports this claim.
157. As a result of this unlawful sexual misconduct, Plaintiff was victimized and suffered additional significant harm and injury in the form of humiliation, emotional distress, discrimination, and later, retaliation.
158. On or about December 6, 2022, PCHS special education employees, including Ms. Raphael, and Plaintiff's Mother met to review the special education evaluation conducted by PCHS special education providers to determine if Plaintiff qualifies for special education services.
159. During this meeting, the PCHS speech therapist and occupational therapist advised that they were recommending discontinuance of the Plaintiff's speech and occupational therapy services.
- a. The occupational therapist made the recommendation after evaluating the Plaintiff on a monthly basis for five minutes.
160. The speech and occupational therapists reported Plaintiff's speech and occupational services would be discontinued at the end of the academic year even though the Plaintiff was continuing on to attend the District's Bridges Program for transition.
161. The speech and occupational therapists reported Plaintiff's speech and occupational services would be discontinued at the end of the academic year even though

the Plaintiff clearly needs speech and occupational therapy services to benefit from the academic, extracurricular, and overall education settings.

162. Speech and occupational services were scheduled to be discontinued even though Plaintiff has significant speech impairments and occupational needs.

163. Speech and occupational services, in addition to other services, accommodations, and modifications, provided were what supported Plaintiff in accessing and benefiting from the academic, extracurricular, and overall education settings.

164. Without services, accommodations, and modifications, Plaintiff is unable to benefit from the academic, including extracurricular, and overall education and learning environment.

165. PCHS employees and Ms. Raphael attempted to discontinue Plaintiff's special education services to retaliate against the Plaintiff, for Plaintiff's Mother participating in Title IX investigation for the unlawful sexual misconduct committed against Plaintiff.

166. Plaintiff's Mother disagreed with this recommendation from the speech therapist and occupational therapist and verbally requested an Independent Education Evaluation ("IEE") be approved for the Plaintiff.

167. During this meeting, on or about December 6, 2022, Plaintiff's Mother asked Ms. Raphael why she had not been provided with the Findings Report, and Plaintiff's Mother received no response from Ms. Raphael.

168. Plaintiff's Mother verbally requested the Findings Report during this meeting.

169. On or about December 7, 2022, another meeting occurred between Mother and special education employees, including Ms. Raphael, to determine if the Plaintiff met requirements for special education services based on their evaluation, even though the

Plaintiff's Mother disagreed with the speech therapist and occupational therapist recommendations to discontinue speech and occupational services.

170. PCHS special education employees and Ms. Raphael still had the meeting even though Plaintiff's Mother disagreed with the recommendations to discontinue Plaintiff's speech and occupational therapy services and voiced her concerns of retaliation against the Plaintiff as a result of the Plaintiff being victimized while in Las Vegas, Nevada causing a Title IX investigation having to be initiated and participation with Title IX investigation(s).
171. On or about December 9, 2022, the Plaintiff's Mother requested an IEE in writing, for the Plaintiff, at the District's expense.
172. On or about December 9, 2022, Plaintiff's Mother requested the Findings Report, in writing.
173. On or about December 10, 2022, Plaintiff's Mother received the Findings Report from Mr. Trahan, after multiple requests.
174. Findings Report was dated for September 6, 2022.
175. On or about December 12, 2022, Mother received correspondence from the District's, then Special Education Director Matthew Montoya ("Mr. Montoya"), approving Plaintiff Mother's request for an IEE.
176. On or about December 19, 2022, and after reviewing the initial Title IX Findings Report, Plaintiff's Mother had many concerns based on the report and found the report unsubstantial and partial.
177. As a result, Plaintiff's Mother appealed the Findings Report dated for September 6, 2022 and requested a District level investigation.

178. On or about December 20, 2022, the Plaintiff's Mother made a child protective services report to DHS (# 24-02173).

179. On or about December 21, 2022, the Plaintiff's Mother made a police report to the Colorado Springs Police Department ("CSPD") with Officer Tylor Wyatt ("Mr. Wyatt") and Mr. Wyatt provided the Plaintiff's Mother with a case number for the report (# 22-46976).

180. On or about December 22, 2022, the District's General Counsel Tonya Thompson ("Ms. Thompson") advised that she had received my appeal of the Findings Report and request for a District level investigation.

181. On or about January 1, 2023, Plaintiff's Mother contacted Ms. Thompson to advise, after speaking with the Plaintiff, Plaintiff's Mother was concerned that the Plaintiff was sexually assaulted.

182. Plaintiff's Mother asked Plaintiff if someone touched his private area (genitalia), at which the Plaintiff nodded his head yes and pointed to one of the student suspect's names.

183. Mother asked the Plaintiff who showed or taught him how to masturbate, and after asking the Plaintiff multiple questions, Plaintiff's Mother was able to determine the Plaintiff was shown a video that taught him how to masturbate in addition to possibly being sexually assaulted.

184. Based off the Plaintiff's report, the student suspects showed Plaintiff a pornographic video, demonstrated masturbation, and instructed him to masturbate accordingly.



185. The student suspects covered Plaintiff with the bed sheets, then filmed Plaintiff masturbating in his bed followed by distributing the videos and photo(s) to the rest of the football team, which eventually reached the entire student body.
186. Plaintiff's Mother provided Plaintiff's report of sexual assault to the District.
187. District performed little, if any, investigation in response.
188. On or about January 1, 2023, Plaintiff's Mother requested immediate interim safety measures be put in place to prevent the Plaintiff being subjected to additional harm and injury, and as a result of PCHS failing to implement such immediate safety measures.
189. On or about January 3, 2023, Ms. Raphael responded to the Plaintiff Mother's request for immediate safety measures and implemented interim safety measures.
190. Safety measures were implemented approximately five (5) months after the unlawful sexual misconduct was committed against Plaintiff.
191. Safety measures were implemented at Mother's request not PCHS employees' initiation or implementation.
192. One of these interim safety measures included the Plaintiff being excluded and restricted from participating in end-of-the-season football activities and Ms. Raphael reported, since the Plaintiff was a senior he should not be attending any of the football events.
193. Ms. Raphael willfully excluded Plaintiff from participating in the end-of-the-season football activities.
194. PCHS allowed the two student suspects to attend such activities and one of the student suspects was a senior.

195. Excluding the Plaintiff, who was victimized, from participating in end-of-the year football activities, was a violation of Federal law, by way of retaliation.

196. Federal law indicates that a person does not have the right to retaliate against a person for making a charge, testifying, assisting or participating in, an investigation, proceeding, or hearing, as identified by Federal law.

197. Due to a Title IX investigation being initiated as a result of the unlawful sexual misconduct committed against Plaintiff, Plaintiff's Mother appealing the Findings Report, making a DHS report, making a CSPD report, and, eventually a HPD report, PCHS employees chose to willfully exclude Plaintiff from participating in extracurricular end-of-the-year football activities.

198. Plaintiff's Mother made police and DHS reports and appealed PCHS Title IX reports.

199. Federal law also indicates no person shall be excluded from participating in, subjected to discrimination under any ... education program, or activity operated by a recipient that receives federal financial assistance... and must not;

200. Treat one person differently from another in determining whether such persons satisfies any requirement or condition for provision of such aid, benefit, or service; provide different aid, benefits, or services or provide aid, benefits, or services in a different manner; deny any such aid, benefit, or service; subject any person to separate or different rules or behavior of behavior, sanctions, or other treatment; and otherwise limit, any person in the enjoyment or any right, privilege, advantage, or opportunity.

201. Ms. Raphael, PCHS, and District violated Federal law as evidenced by excluding and restricting Plaintiff from participating in football activities that other football players, including student suspects, were afforded.
202. Exclusion was a result of Plaintiff being victimized, and Plaintiff's Mother appealing, making a DHS report, and making multiple police reports.
203. Ms. Thompson, Dr. Smith, and other District staff were aware of such restriction(s) and did not inform PCHS employees that such restrictions and exclusions were violation(s) of Federal law.
204. Excluding Plaintiff further caused harm to Plaintiff by the Plaintiff being unable to benefit from PCHS football activities because he was excluded and restricted from participating in them.
205. On or about January 3, 2023, District Investigator Lieutenant Buck Meyer ("Mr. Meyer") was contacted by the District's Legal Specialist Kathy Nomeika ("Ms. Nomeika"), who provided Mr. Meyer with the Plaintiff Mother's comments.
206. The comments provided to Mr. Meyer by Ms. Nomeika were not the complete list of concerns Plaintiff's Mother had listed in her appeal of the Findings Report.
207. On or about January 4, 2023, Plaintiff's Mother made a police report (# 23-00227) to the Henderson Police Department ("HPD"), where the unlawful sexual misconduct against the Plaintiff occurred, and as a result of PCHS conducting a partial investigation, and willfully discriminating and retaliating against the Plaintiff.
208. On or about January 10, 2023, Mr. Meyer reported he began a District level investigation concerning the unlawful sexual misconduct committed against the Plaintiff, while on the PCHS football field trip to Las Vegas, Nevada.

209. On or about January 10, 2023 Mr. Meyer met with Mr. Gallegos who advised he was aware of the unlawful sexual misconduct committed against Plaintiff, however, reported an official criminal investigation had not been initiated.

210. On or about and between January 4, 2023 and January 18, 2023, Mr. Meyer contacted Plaintiff's Mother, by phone, to request a meeting to discuss the Plaintiff being victimized by way of unlawful sexual misconduct.

211. During this phone call, Plaintiff's Mother asked Mr. Meyer if Plaintiff needed to be present and Mr. Meyer told Plaintiff's Mother that Plaintiff did not need to be present for the meeting.

212. Further, Mr. Meyer explained to Plaintiff's Mother, if he needs to speak with the Plaintiff, he will schedule a time to meet with Plaintiff at a later time.

213. On or about January 19, 2023, Mr. Meyer, the Plaintiff's Mother, and Ms. Roy met to discuss the unlawful sexual misconduct committed against the Plaintiff and how Ms. Roy notified multiple PCHS, District, and Club members before the football field trip about the need for accommodations for football players who are on 504 Plans and IEPs.

214. At this meeting, Mr. Meyer reported that if, during his investigation, he finds that a crime was committed, he will ask Mr. Gallegos to recuse himself as a result of Mr. Gallegos having a special relationship with the football coaches; conflict of interest that could and did result in a partial investigation.

215. On or about January 20, 2023, Mr. Meyer met with Mr. Gallegos for a second time and provided Mr. Gallegos with the details of the interview conducted with Mother and Ms. Roy.

216. Mr. Meyer explained to Mr. Gallegos that some of the statements made by the Plaintiff to his Mother were a violation of criminal law, specifically, unlawful sexual contact.

217. Although Mr. Meyer and Mr. Gallegos were aware of the statements made by the Plaintiff, they continued to fail to make mandatory reports to the Henderson Police Department or DHS.

218. Mr. Meyer willfully declined to interview Plaintiff during his District level investigation, even though Plaintiff's Mother asked Mr. Meyer if Plaintiff needed to be present at the meeting for interview.

219. Mr. Meyer reported Plaintiff did not need to be present during interview, however, if he needed to speak with Plaintiff after meeting with Mother, he would schedule another time to meet with Plaintiff.

220. Mr. Meyer willfully never advised that he needed to meet with, nor requested to meet with the Plaintiff.

221. Willful failure to interview Plaintiff further demonstrates the District's failure to act to implement an impartial investigation.

222. Willful failure to request to meet with and provide reasonable accommodations to interview Plaintiff to allow Plaintiff to say what happened to him during victimization, was a violation of Federal law, on the District's behalf.

223. On or about January 20, 2023, Mr. Meyer interviewed Mr. Miller.

224. During this interview with Mr. Miller, Mr. Meyer discovered that 16 coaches and two PCHS administrators, Principal Cormaney and Ms. Raphael, and 54 players attended the football team fieldtrip to Las Vegas, Nevada;



225. Mr. Miller was aware of Plaintiff's disabilities and needs prior to the football team departing to Las Vegas, Nevada;

226. No special needs support traveled with the team for the Plaintiff even though Mr. Miller discussed para support for the Plaintiff with Principal Cormaney who advised there would be no para support and the Plaintiff was fine;

227. Mr. Miller became aware of the unlawful sexual misconduct committed against the Plaintiff pregame;

228. No immediate safety measures were implemented to prevent the Plaintiff from further harm and injury; and

229. No mandatory reports were made, as required by Federal law, beyond the report Mr. Miller provided to Mr. Trahan about the unlawful sexual misconduct committed against the Plaintiff, three (3) days after the unlawful sexual misconduct was committed against Plaintiff.

230. On or about January 20, 2023, Detective Troy Starr ("Mr. Starr") of HPD Special Victim's Unit was assigned to investigate the unlawful misconduct committed against Plaintiff.

231. On or about January 20, 2023, Mr. Meyer interviewed Mr. Wibbels.

232. During this interview with Mr. Wibbels, Mr. Meyer discovered that 16 coaches and two PCHS administrators, Principal Cormaney and Ms. Raphael, attended the PCHS football team field trip to Las Vegas, Nevada;

233. Mr. Wibbels became aware of the crime committed against the Plaintiff pregame;

234. That Mr. Miller was assigned to supervise the Plaintiff because of the positive relationship Mr. Miller had with the Plaintiff;

235. After becoming aware of the crime Mr. Wibbels instructed one of the student suspects to delete the evidence (video or videos) immediately (destroy the evidence);

236. No immediate safety measures were implemented to prevent the Plaintiff from further harm and injury; and

237. Mr. Wibbels was not sure if the Plaintiff's Mother was notified nor if mandatory reports were made about the unlawful sexual misconduct committed against the Plaintiff.

238. When Mr. Wibbels reported he did not know if the Plaintiff's Mother was notified about the unlawful sexual misconduct, nor if mandatory reports were made, that implies that he himself did not make such reports.

239. Plaintiff's Mother was never notified about the unlawful sexual misconduct committed against the Plaintiff by Mr. Wibbels.

240. On or about January 27, 2023, Mr. Meyer interviewed Ms. Chatman.

241. During this interview with Ms. Chatman, Mr. Meyer discovered that 16 coaches and two PCHS administrators, Principal Cormaney and Ms. Raphael, attended the football team fieldtrip to Las Vegas, Nevada;

242. Ms. Chatman and other members of the Club had been working on the planning and fundraising for the football fieldtrip to Las Vegas, Nevada;

243. Ms. Chatman was aware of Plaintiff's ASD diagnosis and being NON-VERBAL;

244. Ms. Chatman advised no special needs support traveled with the football team and reported that such support was not required;

245. Mr. Miller was assigned to Plaintiff to provide supervision;

246. Ms. Chatman became aware of the unlawful sexual misconduct committed against the Plaintiff pregame;

247. Ms. Chatman received a text message from Mr. Wibbels stating the video of the Plaintiff had been deleted; and

248. Ms. Chatman was not sure if the Plaintiff's Mother was notified nor if mandatory reports were made about the unlawful sexual misconduct committed against the Plaintiff.

249. When Ms. Chatman reported she did not know if the Plaintiff's Mother was notified about the crime nor if mandatory reports were made, that implies that she herself did not make such reports.

250. Plaintiff's Mother was never notified about the unlawful sexual misconduct committed against the Plaintiff by Ms. Chatman.

251. On or about February 7, 2023, Mr. Meyer attempted to contact one of the student suspect's, R.U. ("R.U. Suspect"), parents by phone and requested to interview R.U. Suspect.

252. R.U.'s parents are Aimee Urban ("Ms. Urban") and Trent Urban ("Mr. Urban Parent").

253. On or about February 7, 2023, Mr. Meyer attempted to contact another one of the student suspect's, H.K. ("H.K. Suspect"), mother by phone and requested to interview H.K. Suspect.

254. H.K. Suspect's mother is Susanna Koblian ("Ms. Koblian").

255. On or about February 8, 2023, Mr. Meyer was contacted by Mr. Urban Parent who advised he was well aware of the unlawful sexual misconduct committed against the Plaintiff and felt that it had been dealt with several months ago.

256. Mr. Meyer asked to interview R.U. Suspect at which Mr. Urban Parent replied that he nor R.U. Suspect wanted to be involved in the investigation.

257. On or about February 8, 2023, Mr. Meyer was contacted by Mr. Gallegos who advised he completed several interviews with players who seen the video or videos of Plaintiff.

258. Mr. Gallegos reported that some of the players were able to identify Plaintiff.

259. Mr. Gallegos advised that he did not interview the two student suspects due to the allegation being that they were the students that shared the video of Plaintiff.

260. On or about February 8, 2023, Mr. Meyer sent an email to Ms. Koblian requesting to interview H.K. Suspect and asked Ms. Koblian to advise if she did not want H.K. Suspect to be interviewed regarding this investigation.

261. On or about February 8, 2023, Ms. Koblian replied to Mr. Meyer's email and reported she did not want H.K. Suspect to be interviewed.

262. On or about February 13, 2023, Mr. Meyer met with Ms. Koblian in-person to be interviewed.

263. During Mr. Meyer's interview with Ms. Koblian, Mr. Meyer discovered that Ms. Koblian did not think Principal had any leadership skills and was unaware of boundaries with students;

264. Ms. Koblian believed the District attempted to deflect the blame (of this unlawful sexual misconduct committed against Plaintiff), on the student suspects;

265. Ms. Koblian received a phone call from Mr. Trahan who told H.K. Suspect that he had committed a crime and could be facing criminal charges to include felony distribution of child porn and could be facing registered sex offender status, while Ms. Koblian was on the phone;

266. Mr. Trahan reporting this to H.K. Suspect, indicates Mr. Trahan knew the unlawful sexual misconduct was criminal, yet, failed to report the unlawful sexual misconduct to law enforcement or DHS.

267. Ms. Koblian advised H.K. admitted to video recording the Plaintiff and sending the video to his friends;

268. Ms. Koblian advised H.K. Suspect reported that R.U. Suspect video recorded the Plaintiff and sent the video to a group chat;

269. Mr. Miller contacted H.K. Suspect and advised that the suspension would not affect his playing time;

270. Mr. Miller and Principal Cormaney allowed H.K. Suspect to return to the team practice before his suspension was over and could play in the upcoming game;

271. Ms. Koblian advised Principal Cormaney and Ms. Raphael attended the football team field trip to Las Vegas, Nevada;

272. Ms. Koblian advised no para support traveled on the football fieldtrip to support Plaintiff; and

273. Ms. Koblian advised she was unaware of the new allegation of Plaintiff being sexually assaulted and reported she will ask H.K. Suspect and get back to Mr. Meyer.

274. On or about February 16, 2023, Mr. Meyer sent Ms. Koblian a follow-up email from the interview and to ask additional questions.

275. On or about February 16, 2023, Ms. Koblian replied to Mr. Meyer at which point Mr. Meyer discovered that PCHS administration feared taking the blame for the unlawful sexual misconduct committed against the Plaintiff;



276. Ms. Koblian reported PCHS administration tried to free themselves from responsibility by blaming H.K. Suspect;
277. Ms. Koblian reported Principal Cormaney told her H.K. Suspect was a person of trust; and
278. Ms. Koblian was aware of Plaintiff's ASD diagnosis.
279. Plaintiff's Mother never spoke with or met with Ms. Koblian about Plaintiff or the unlawful sexual misconduct committed against him.
280. Plaintiff's Mother is unaware of how Ms. Koblian became aware of Plaintiff's ASD diagnosis and additional needs given the fact that Plaintiff's Mother never signed a release of information ("ROI") giving PCHS coaches or staff, District, or BOE permission to disclose Plaintiff's personal identifiable information ("PII") to Ms. Koblian.
281. Federal law protects the privacy of student education records, yet, Ms. Koblian was aware of Plaintiff's diagnosis and other PII.
282. It was later discovered, through Ms. Koblian's report, Principal Cormaney disclosed Plaintiff's PII to the Ms. Koblian.
283. This is evident that Principal Cormaney violated additional Federal law, specifically, Family Educational Rights and Privacy Act.
284. On or about March 3, 2023, CSPD reported that they notified HPD about this case by letter and indicated the there is no ongoing criminal investigation.
285. However, this was an ongoing investigation about the unlawful sexual misconduct committed against the Plaintiff as evidenced by Mr. Meyer continuing to investigate the

unlawful sexual misconduct committed against Plaintiff as seen with Mr. Meyer's interview with Principal Cormaney on this same day.

286. On or about March 3, 2023, Mr. Meyer interviewed Principal Cormaney and discovered that she and Ms. Raphael traveled to Las Vegas, Nevada with the football team;

287. Principal Cormaney knew of Plaintiff's disabilities as evidenced by Principal Cormaney reporting that she had not seen Plaintiff's 504, contrary to what she previously reported to Ms. Roy, but knew that he was NON-VERBAL and had the learning capacity of a first or second grader;

288. Principal Cormaney stated that as far as she knows, Plaintiff does not need one-on-one para support, but Plaintiff usually is always with a para or staff member while attending school;

289. As a result of Principal Cormaney being aware that Plaintiff was disabled and always had a para while attending school, she knew the needs and accommodations of Plaintiff.

290. Principal Cormaney advised no support traveled with the football team to provide care for Plaintiff and reported this was the decision of Ms. Thompson;

291. Principal Cormaney advised Mr. Miller was assigned as Plaintiff's chaperone;

292. Principal Cormaney learned about the unlawful sexual misconduct committed against Plaintiff at approximately 1715 before the football game;

293. Principal Cormaney advised no immediate safety measures were implemented to prevent Plaintiff from further harm or injury;

294. Principal Cormaney advised to the student suspect's parents that this could have been much worse and that they could have been facing expulsion and possible sex offender registration.

295. This demonstrates Principal Cormaney was aware of the unlawful sexual misconduct committed against Plaintiff was criminal, however, failed to make mandatory reports, as required by Federal law.

296. Principal Cormaney advised a mandatory report was made, however, did not provide report number nor to whom the mandatory report(s) was made.

297. A report number (# 22353026) was eventually provided, however, this was a call for service number initiated by Safe-2-Tell reports made by concerned parents and documented by Mr. Gallegos.

298. On or about April 07, 2023, Plaintiff begins mental health therapy to process the unlawful sexual misconduct committed against him.

299. On or about April 07, 2023, a safety plan was created as a result of Plaintiff wishing he was dead or would fall asleep and not wake up, due to the unlawful sexual misconduct committed against him; suicidal ideation.

300. On or about April 07, 2023, Plaintiff was diagnosed with Post-Traumatic Stress Disorder ("PTSD") as a result of the unlawful sexual misconduct committed against him.

301. On or about April 20, 2023, Mr. Starr contacted Sergeant Mark Enomoto of the CSPD and requested their reports and call for service documentation regarding the unlawful sexual misconduct committed against Plaintiff.

302. Mr. Starr reported receiving all their reports and calls for services this same day.

303. Mr. Starr was advised to contact Sergeant Phil Tollefson (“Mr. Tollefson”) of the CSPD School Resource Officer (SRO) Unit and Mr. Gallegos if additional information was needed.

304. On or about May 12, Mr. Starr contacted Mr. Gallegos to discuss the unlawful sexual misconduct committed against Plaintiff.

305. Mr. Gallegos advised Mr. Starr to contact Mr. Meyer and provided Mr. Starr with Mr. Meyer’s contact information.

306. On or about May 12, 2023, Mr. Starr contacted Mr. Meyer and requested all the District’s internal investigation documentation regarding the unlawful sexual misconduct committed against Plaintiff.

307. On or about May 15, 2023, Mr. Meyer provided Mr. Starr with the requested internal District investigation documentation.

308. On or about May 17, 2023, both student suspects were found guilty, by Mr. Starr, of a felony crime, Promotion of Sexual Performance of Minor, according to the Nevada Revised Statutes.

309. On or about May 17, 2023, Mr. Starr submitted Affidavit for Writs to the Clark County District Attorney’s Office.

310. On or about and between May 27, 2023 – June 28, 2023, an IEE was conducted with the Plaintiff, by Dr. Shanda Vaira (“Ms. Vaira”), Licensed School Psychologist of Summit Psychological Assessment & Consultation, Audra Koning (“Ms. Koning”), Licensed Speech Language Therapist of Summit Psychological Assessment & Consultation, and Christin Knapek (“Ms. Knapek”), Licensed Occupational Therapist of Summit Psychological Assessment & Consultation.

311. On or about May 29, 2023, Mr. Starr received notice from Clark County District Attorney's Office that both Affidavit for Writs in this case were denied due to the suspects and all witnesses living out-of-state, making it too difficult to prosecute.

312. The denial of the Affidavit for Writs by Clark County District Attorney, demonstrates how PCHS's, District's and BOE's failure to mandatory report according to Federal law, took away Plaintiff's and Plaintiff's Mother's civil rights and liberties to obtain justice for the unlawful sexual crime committed against the Plaintiff.

313. If PCHS would have adhered to Federal mandatory reporting laws, specifically making reports to law enforcement, an investigation could have been initiated by HPD while the PCHS football team, coaches, and employees were still in Nevada.

314. Further, arrangements by HPD could have been implemented to further determine how an investigation would proceed once the PCHS football team, coaches, and staff returned to Colorado via Outside Agency Assist ("OAA"), prior to departure from Nevada.

315. PCHS football coaches and employees willfully acted with the intent to prevent or influence the disposition of related investigations involving this unlawful sexual crime committed against Plaintiff.

316. On or about May 29, 2023, Plaintiff engaged in self-injurious behavior by way of slamming his hand on an object causing the Plaintiff to require medical attention and Plaintiff was transported to hospital via ambulance.

317. Plaintiff engaged in self-injurious behavior due to the unlawful sexual misconduct committed against him and not having the ability to self-regulate his emotions.

318. Plaintiff caused physical injury to left and right wrists and forearms.

319. On or about June 7, 2023, Plaintiff required surgery to heal injuries sustained from self-injurious behavior and injury.

320. On or about and between June 12, 2023 – August 29, 2023, Plaintiff required and participated in rehabilitative therapy for healing and recovery from self-injurious behavior and injury.

321. On or about July 6, 2023, Ms. Starr contacted Plaintiff's Mother and advised the case was denied by the District Attorney's Office and the case would be closed.

322. On or about July 22, 2023, Summit Psychological Assessment & Consultation providers, completed their IEE with Plaintiff and provided their report ("IEE Report") to Mother.

323. Generally, the IEE reported the following, including and is not limited to:

- a. PCHS listed disability statements in Plaintiff's IEP, however, failed to indicate accommodations that address the disability statements;
- b. PCHS did not provide the Plaintiff with the tools needed to effectively communicate as evidenced by Plaintiff's use of AAC device presenting with inefficient knowledge and use.

324. The IEE Report documented the following recommendations, based on their evaluation (s), including and is not limited to:

- a. Consistent supervision to monitor and support Plaintiff's identified deficits within his cognitive and adaptive functioning as a result of Plaintiff's inability to independently meet his safety needs;
- b. It is unlikely he will recognize unsafe situations and respond in a manner that meets all of his safety needs;



- c. Direct individualized instruction targeting Plaintiff's social, emotional, and behavioral needs (i.e. interpreting and responding expectedly to social cues, emotion identification in himself and others, utilization of healthy coping strategies);
- d. Services and accommodations listed must align with all needs identified in the impact of the disability statement within Plaintiff's most recent IEP (December 2022);
- e. Specific needs listed but not targeted through direct or indirect services, and/or the accommodations include the following: self-advocacy, safety (i.e. situational awareness as Plaintiff is at risk of being taken advantage of in the community when not supported); independence and social skills, which both result from Plaintiff's cognitive impairment and adaptive skill deficits;
- f. Given Plaintiff's identified cognitive, communication, social and emotional needs, the impact of trauma experienced (referencing unlawful sexual crime committed against the Plaintiff), is unknown;
- g. Additionally, Plaintiff consistently demonstrates a tendency to internalize emotions experienced, which makes it difficult for individuals to know when support is needed;
- h. Access to direct mental health support is recommended as this would put Plaintiff an opportunity to begin processing if impacts are present. It will be important to ensure the therapeutic approach is selected aligns with Plaintiff's developmental level. Given Plaintiff's identified impairments, a play-based approach may be

appropriate to consider. Additional educational topics to consider within this service include healthy relationships and safe touch;

- i. Consistent access to a positive social group/network, which will allow Plaintiff to practice generalized social skills targeted. Identifying group/networks, which that are highly motivating will likely be the most impactful (e.g. football through Special Olympics);
- j. Given Plaintiff has made statements which could indicate the presence of suicide ideation, consistent emotional check-ins are necessary to gauge his mental state, as well as, ask for support;
- k. Consideration and planning for community support/connections/access following Plaintiff's completion of the Bridges Transition Program. Many programs can be accessed with the support of The Resource Exchange ("TRE") and provide the level of support/Supervision Plaintiff is currently demonstrating a need for;
- l. Consultation with a Speech Language Pathologist ("SLP") in the area of Augmentative and Alternative Communication ("AAC") device and/or consider implementing the use of communication app on Plaintiff's phone;
- m. Weekly direct speech therapy intervention to instruct and monitor the use for an AAC speech output device/app to improve communication in both expression as well as adapt due to difficulties with articulation intelligibility;
- n. Support for decreased fine motor skills as they apply to activities of daily living (i.e. clothing manipulatives, containers, latches, tying, handwriting, typing, simple meal and snack prep, etc.);

- o. Support may look like physical assistance for the difficult parts of the task (faded with independence), simplification and task breakdowns, or accommodations or modifications;
  - p. Teaching and practicing activities of daily living skills with visuals for support and reference; and
  - q. Use visual with pictures for activities of daily living steps and sequences.
325. On or about August 31, 2023, Plaintiff's Mother had an additional meeting and met with approximately eighteen (18) District Special Education group members, including Ms. Raphael and PCHS Special Education Teacher Heather Pinder ("Ms. Pinder"), to discuss evaluation to see if Plaintiff meets requirements for education special education services.
326. On or about August 31, 2023, Plaintiff's Mother provided the District Special Education group members and PCHS staff with a parental concerns statement to add to Plaintiff's IEP.
327. On or about September 8, 2023, Mother met with approximately eighteen (18) District Special Education group member to develop Plaintiff's IEP.
328. At this meeting, District Special Education group members approved Plaintiff to receive occupational therapy services on an on-consult only basis for the next year.
329. This on-consult only basis disposition for the Plaintiff to receive occupational therapy services is not sufficient enough to address the occupational therapy needs of the Plaintiff, needs as indicated in the Plaintiff's IEE.
330. At this meeting, District Special Education group members approved Plaintiff to receive speech therapy services for sixty (60) minutes monthly, for the next year.

331. This sixty (60) minutes monthly disposition for the Plaintiff to receive speech therapy services is not sufficient enough to address the speech therapy needs of the Plaintiff, needs as indicated in the Plaintiff's IEE.

332. District Special Education group members part of this meeting were different, in part, then those PCHS Special Education group members who attempted to discontinue Plaintiff's speech and occupational therapy services.

333. Approximately two (2) PCHS special education group members attended this meeting to include Ms. Raphael and PCHS Special Education Teacher Ms. Heather Pinder ("Ms. Pinder").

334. On or about September 21, 2023, Plaintiff's Mother contacted the District's Compliance Officer Haylee Ziton ("Ms. Ziton") and requested the second Title IX investigation report ("Investigative Report").

335. On or about September 21, 2023, Plaintiff's Mother contacted the District's Superintendent Jinger Haberer ("Ms. Haberer") and requested a meeting to discuss the crime committed against Plaintiff and PCHS's and District's failure to act.

336. On or about September 21, 2023, Plaintiff's Mother was advised, by Ms. Haberer's administrative assistant, that her request was being routed to Dr. Smith.

337. On or about September 21, 2023, Plaintiff's Mother contacted the BOE and requested a meeting to discuss the unlawful sexual crime committed against Plaintiff and PCHS's and District's failure to act.

338. On or about September 21, 2023, Plaintiff's Mother was advised, by the BOE's secretary, that her request was being routed to Dr. Smith.

339. Plaintiff Mother's requests for a meeting with Ms. Haberer and the BOE should not have been routed to Dr. Smith because Dr. Smith was notified early on and part of the investigation, yet, failed to intervene, which was a conflict of interest which, in part, contributed to the investigations being partial.

340. On or about September 22, 2023, Ms. Ziton advised she was in receipt of my Title IX request via the Family Educational Rights and Privacy Act ("FERPA") and advised any such records will be provided to Plaintiff's Mother within 45 days and without any undue delay.

341. Ms. Ziton advised Plaintiff's Mother will receive the full record no later than November 1, 2023, even though, approximately ten (10) months had passed since Plaintiff's Mother appealed the initial Title IX Findings Report.

342. On or about October 3, 2023, Plaintiff's Mother and Dr. Smith met to discuss the crime committed against the Plaintiff.

343. This meeting resulted in no resolutions or dispositions that provided redress for the unlawful sexual crime committed against the Plaintiff.

344. During this meeting with Dr. Smith, Plaintiff's Mother requested the second Title IX District investigation report ("Investigative Report"), at which Dr. Smith advised he would provide Plaintiff's Mother with the report in two (2) weeks.

345. On or about October 16, 2023, Dr. Smith provided Plaintiff's Mother with the second Investigative Report.

346. This Investigative Report did not address any of the concerns that caused Plaintiff's Mother to appeal the Findings Report.

347. This Investigative Report presented falsified documentation as evidenced by the following, which included and is not limited to:

- a. The Investigative Report indicating no contact directives between Plaintiff and two student suspects were immediately implemented;
  - i. No contact directives were not implemented until on or about January 3, 2023 at the request of Plaintiff's Mother;
- b. The Investigative Report indicating that all students have been scheduled in classes that are not together;
  - i. Plaintiff and student suspects were not in classes together and, therefore, no classes had to be scheduled or rescheduled;
- c. The Investigative Report indicating PCHS administration made a mandatory report to CSPD on Monday, August 29, 2023 [call screen #22353026];
  - i. PCHS administration did not make a mandatory report;
  - ii. The number listed is a call for service number that was initiated by a Safe-2-Tell reports and documented by Mr. Gallegos;
- d. The Investigative Report indicated a Findings Report was issued to the parties, and on January 3, 2023, Plaintiff's Mother appealed the findings and requested a formal investigation into this matter;
  - i. Plaintiff's Mother received the Findings Report on December 10, 2022, and within ten (10) days on December 19, 2022, Plaintiff's Mother appealed the Findings Report;
- e. Plaintiff's Mother had multiple concerns in addition to the concern that the Plaintiff was sexually assaulted;



- f. The Investigative Report indicating Mr. Miller was an investigator and a witness;
  - i. Mr. Miller should not have been an investigator since he was being investigated as part of this investigation (conflict of interest which led to a partial investigation);
- g. The Investigative Report indicating Mr. Trahan was an investigator;
  - i. Mr. Trahan was also listed as a witness;
  - ii. Mr. Trahan should not have been an investigator since he investigated during the initial Findings Report (conflict of interest which led to a partial investigation) which resulted in Plaintiff's Mother appealing the Findings Report;
- h. The Investigative Report listed the Compliance Coordinator as Holden Lee ("Mr. Lee");
  - i. Mr. Lee was listed as the author of the investigation report who is no longer employed by the District;
- i. The Investigative Report listed Dr. Smith as the decision-maker;
  - i. Dr. Smith's involvement with this Investigation Report is a conflict of interest as evidenced by Dr. Smith being previously notified about PCHS's and District's staff unlawful and unethical violations and failing to act, when Ms. Roy and Plaintiff's Mother raised concerns;
  - ii. Dr. Smith willfully failed to act and hold PCHS staff and administration accountable for their abuse and negligence towards Plaintiff;
  - iii. Dr. Smith was aware of the unlawful sexual crime committed against Plaintiff and did nothing to redress;

- j. The Investigative Report listed Ms. Roy as Plaintiff Mother's advisor;
  - i. Ms. Roy has never been identified or reported as the Plaintiff Mother's advisor;
- k. The Investigative Report indicated Mr. Miller received a report that there was a video or picture of Plaintiff doing a lewd act and that masturbation was possibly mentioned;
  - i. Mr. Miller was aware of the videos and photo(s) that were recorded and distributed, via group chat, of the Plaintiff;
  - ii. Mr. Miller knew the videos involved unlawful sexual misconduct, pregame, on game day;
- l. Investigative Report indicated multiple Safe-2-Tell reports were made between August 27, 2023 and August 28, 2023;
  - i. PCHS and District received Safe-2-Tell reports between August 27, 2023 and August 29, 2023;
  - ii. These Safe-2-Tell reports stated two football players took two separate videos of a special needs student masturbating and shared it in a group chat, another report indicated Plaintiff was jacking off in a video that student suspects shared and was deleted once coaches found out, and the last report stated two students filmed another teammate which is NON-VERBAL and special needs masturbating and then they posted the video;
- m. The Investigative Report indicated Plaintiff's Mother emailed Ms. Thompson about her concern that Plaintiff was sexually assaulted and requested the District to investigate;

- i. Plaintiff's Mother appealed the initial Title IX Findings Report on or about December 19, 2022 and, at that time, requested a District level investigation;
  - ii. The District level investigation was requested on December 19, 2022 at the time the Findings Report was appealed;
- n. The Investigative Report indicating immediate interim measures were implemented by PCHS to address allegations and prevent further conduct during the investigation;
  - i. No immediate interim or safety measures were implemented at the time of the unlawful sexual misconduct (crime) committed against Plaintiff as evidenced by multiple reports from PCHS coaches and employees including Principal Cormaney;
  - ii. No immediate interim or safety measures were initiated by PCHS until Plaintiff's Mother requested safety measures be implemented to prevent further harm to the Plaintiff;
- o. The Investigative Report indicated Mr. Miller addressed the players and parties emphasizing the importance of being good teammates, after the game;
  - i. Mr. Miller gave a presentation to football players, on being good teammates, at a meeting before the football team departing to Las Vegas, Nevada;
- p. The Investigative Report indicating Mr. Wibbels stated he had a conversation with one of the student suspects after the game;

- i. Mr. Wibbels reported speaking with the student suspect before the game and instructed him to delete the video;
- q. The Investigative Report indicating the two student suspects had very little playing time after admitting to committing the crime;
  - i. Mr. Miller allowed the two student suspects to play in the football game the night even though he became aware of the unlawful sexual crime committed against Plaintiff, prior to the game;
  - ii. Mr. Miller and Principal Cormaney allowed one of the student suspects to return to practice before his suspension was completed and let him play in the following football game;
  - iii. For this same student suspect, PCHS agreed to alter the student suspect's school record, regarding the unlawful sexual crime he had committed against the Plaintiff, to reflect as if he had nothing to do with the crime, at Ms. Koblian's request;
- r. The Investigative Report indicating Plaintiff's Mother shared concerns about Plaintiff going on the football team fieldtrip to Las Vegas, and such concerns were heard by PCHS administration and Mr. Miller;
  - i. Plaintiff's Mother did not speak with or meet with PCHS administration or Mr. Miller because the supervision and chaperoning arrangements were already established through correspondence with Ms. Chatman;
- s. The Investigative Report indicating Mr. Wibbels reported 99% of the information received about the crime was from other people after we got home from Vegas;
  - i. There is no documented evidence that Mr. Wibbels reported this;

- ii. Mr. Wibbels spoke with one of the student suspects who admitted to committing the crime, at which point, Mr. Wibbels instructed the student suspect to destroy the evidence;
- t. The Investigative Report indicated Plaintiff's Mother told Ms. Koblian that it's so serious because H.K. Suspect was considered a person of trust;
  - i. Plaintiff's Mother never had a conversation with Ms. Koblian and never told this to Ms. Koblian;
  - ii. Further, it is documented that Principal Cormaney was the person who in fact told this to Ms. Koblian;
- u. The Investigative Report indicating appropriate school consequences were assigned to the student suspects; and
  - i. H.K. Suspect did not even complete his suspension and was still allowed to play on the football team.

348. On or about October 20, 2023, Plaintiff's Mother filed formal complaints with the Colorado Department of Education ("CDE") against the professional licenses of Mr. Miller, Mr. Wibbels, Ms. Chatman, Principal Cormaney, and Ms. Raphael, for failing to adhere to mandatory reporting laws as required by Federal laws, resulting in the Plaintiff being harmed.

349. On or about October 26, 2023, after review of the Investigative Report and discovering the Investigative Report was altered and falsified, Plaintiff's Mother appealed the report and provided an appeal statement indicting such acts and concerns.

350. On or about November 8, 2023, the Colorado Department of Education identified the credential-holders as engaging in unlawful and unethical behavior and moved to

approve and instruct department staff and the state attorney general's office to prepare the documents necessary to request a formal hearing for the revocation of the credential-holders' professional licenses.

- a. Disposition pending regarding educator license complaints filed against Mr. Miller, Mr. Wibbels, Ms. Chatman, Principal Cormaney, and Ms. Raphael.
- b. The District and BOE continues to employ Mr. Miller, Mr. Wibbels, Ms. Chatman, Principal Cormaney, and Ms. Raphael putting Plaintiff's school records at risk of retaliation by way of PCHS and District staff having access to Plaintiff's school records and could lead to PCHS or District staff altering Plaintiff's school records as protected by FERPA.
- c. The District and BOE continues to employ Mr. Miller, Mr. Wibbels, Ms. Chatman, Principal Cormaney, and Ms. Raphael putting other students at risk for being subjected to harm, discrimination, and retaliation.

351. On or about November 13, 2023, Plaintiff's Mother filed formal complaints with the Colorado Department of Education ("CDE") against the professional licenses of Ms. Thompson, Dr. Smith, Mr. Trahan, Ms. Talbot, Mr. Martin, and PCHS Athletic Director Walter "Russ" McKinstry ("Mr. McKinstry"), for failing to instruct subordinates to adhere to Federal laws, which further caused harm to the Plaintiff.

- a. PCHS and District employees were aware of Plaintiff's needs prior to Plaintiff attending football out-of-state fieldtrip;
- b. PCHS and District employees were aware of the unlawful sexual crime committed against Plaintiff and willfully failed to act to hold subordinates accountable;

- c. These PCHS and District staff members willfully did nothing to assure Plaintiff was safe, nor did they instruct PCHS staff to make mandatory reports as required by Federal laws;
- d. Disposition is pending with CDE regarding these formal complaints; and
- e. The District and BOE continue to employ these staff members subjecting other students to the risk of harm, discrimination, and retaliation.

352. On or about December 1, 2023, Plaintiff's Mother received a Title IX decision report ("Decision Report") from Principal Cormaney.

353. Decision Report was completed by John Stanek ("Mr. Stanek") of Anderson, Dude, & Lebel, P.C.

354. Decision Report indicated Mother made many comments indicating violations of federal law, however, no evidence was provided.

355. As result, Plaintiff's Mother contacted Mr. Stanek to inquire as to what evidence was provided to him, from the District, which resulted in the disposition of the Decision Report.

356. On or about December 1, 2023 Plaintiff's Mother and Mr. Stanek spoke via phone. The following information was the basis of the conversation and includes but is not limited to:

- a. Mr. Stanek advised that he cannot confirm or deny what documentation, involving the unlawful sexual crime committed against the Plaintiff, was received;
- b. Mr. Stanek advised Plaintiff's Mother needs to contact the District and request the same packet that was sent from the District to him;



- c. Plaintiff's Mother advised Mr. Stanek that she does not trust the District and believes the District will not provide such packet and if they do, the packet will not be the same packet that was sent to Mr. Stanek;
  - d. Mr. Stanek asked if the District had the HPD report, CSPD report, and District level investigation report;
  - e. Mr. Stanek asked Plaintiff's Mother if there are different reports;
  - f. Plaintiff's Mother advised there are multiple police reports involving this unlawful sexual crime committed against Plaintiff;
  - g. Plaintiff's Mother observed, through the questioning of Mr. Stanek, that Mr. Stanek did not receive police reports involving the unlawful sexual crime committed against the Plaintiff, including Mr. Meyer's report which is different than the Investigative Report, as evidenced by Mr. Stanek asking how many reports there are and additional questioning;
  - h. On the Decision Report it is documented that attachments include, "Policies AC; AC R 2, JBB."
  - i. District did not provide Mr. Stanek with the necessary documentation to make an impartial decision based on all the facts presented, as presented in Mr. Meyer's report, HPD police report, CSPD police report, Findings Report, and Investigative Report.
357. On or about December 1, 2023, Plaintiff's Mother requested the District provide her with the complete Packet that was sent to Mr. Stanek, complete Investigative Report conducted by Mr. Meyer and his findings, any and all documentation, reports, statements, witness statements to include students and staff, Safe-2-Tell reports received, and notes

from any and all staff members and persons involved in this Title IX investigation, that was used as evidence during the Title IX investigation.

- a. Plaintiff's Mother requested these documents be sent to her immediately as a result of this investigation going to for approximately one and a half years and just receiving, minimal if any, pertinent information that addressed her concerns as stated in appeal statements.

358. On or about December 1, 2023, Plaintiff's Mother requested the following:

- a. Complete packet that was sent to Mr. Stanek,
- b. Complete investigative report that was conducted by Mr. Meyer, with findings, and
- c. Any and all documentation, reports, statements, witness statements to include students and staff, Safe-2-Tell reports received, and notes from any and all staff members and persons involved in this Title IX investigation; This means any and all of the items listed above and evidence used in this Title IX investigation.

359. On or about December 4, 2023, Dr. Smith acknowledged receiving Plaintiff's Mother's requests and advised the following which includes and is not limited to:

- a. The District has provided Plaintiff's Mother with all of Plaintiff's educational records, previously;
- b. Findings reports that were provided to Plaintiff's Mother included the investigations, and decisions within;
- c. After Plaintiff's Mother's appeal to the Investigative Report, Mr. Stanek reviewed the investigation findings and issued an outcome of the appeal;

- d. Safe-2-Tell reports are not subject to release as they are exclusively property of the Safe-2-Tell and the Office of Colorado Attorney General;
- e. Notes from staff participating in an investigation are personal mental impressions and not subject to release; and
- f. At this time, the investigation is closed and all administrative remedies have been exhausted.

360. On or about December 6, 2023, Plaintiff's Mother responded to Dr. Smith and asked for clarification, including and is not limited to:

- a. Requesting the full and complete report conducted by Mr. Meyer, which Mr. Meyer submitted to the Henderson Police Department after District level documentation was requested by Mr. Starr;
- b. Clarification about what reports and evidence was submitted to Mr. Stanek; and
- c. Clarification to inquire if the District had provided Mr. Stanek with the HPD and CSPD police reports.

361. On or about December 6, 2023, Plaintiff's Mother submitted another email to the BOE requesting a meeting since Dr. Smith advised Plaintiff's Mother had exhausted all remedies at the administration level.

362. On or about December 14, 2023, Plaintiff's Mother received a phone call from Dr. Smith who stated, "I am giving you a call in response to an email you sent the School Board."

363. Plaintiff's Mother asked Dr. Smith to respond to the email that she had sent him because she had many concerns with the Title IX investigations, amongst many other concerns.

364. As one can see, PCHS, the District, and the Board willfully failed the Plaintiff in multiple ways, and was aware of, including but not limited to:

- a. Plaintiff was initially identified as a student with an Intellectual Disability as early as 2008 and received services, accommodations, and modifications throughout his primary and secondary education so he could benefit from the academic, extracurricular, learning and overall, education environment(s);
- b. As relevant here, Plaintiff was subject to an IEP throughout all of his enrollment years at PCHS and in the District;
- c. As a student subject to an IEP, the Defendants had notice that Plaintiff was disabled within the meaning of the ADA and required services, accommodations, and modifications;
- d. As a member of the PCHS varsity football team, Plaintiff was entitled to, and did, attend the out-of-state PCHS football game;
- e. Even though PCHS coaches and staff were aware of the Plaintiff's needs, PCHS willfully chose not to provide any services or accommodations for the Plaintiff to attend the out-of-state PCHS football game;
- f. Defendants willfully failed to provide services and accommodations and purposefully rejected its affirmative duty to accommodate under the ADA which created an environment where Plaintiff was subject to an unlawful sexual crime;
- g. Defendants willfully failed to take immediate action to redress the situation or to protect Plaintiff from further harm, discrimination, retaliation, and humiliation, failed to notify Plaintiff's Mother, failed to initiate impartial investigations on

multiple occasions, and willfully failed to make mandatory reports as required by Federal law;

- h. Defendants failed to initiate effective communication services and accommodation, as seen with PCHS staff and District level staff failing to interview Plaintiff due to being NON-VERBAL;
- i. Defendants chose not to interview Plaintiff as a result of his disability and being NON-VERBAL;
- j. Defendants failed to adhere to mandatory reporting laws as required by federal and state laws;
- k. None of the Defendants, once aware of the unlawful sexual crime against Plaintiff, took any action, since learning about the unlawful sexual misconduct committed against the Plaintiff, or thereafter;
- l. In total, eighteen (18) PCHS employees attended the football team fieldtrip football game and none willfully took any action to protect Plaintiff from further harm, remedy his injury, or see if Plaintiff required medical intervention;
- m. Defendants willfully attempted to cover this unlawful sexual crime committed against the Plaintiff by way of destroying evidence and allowing the destruction of evidence, as seen through PCHS and District staff willfully failing to make mandatory reports as required by Federal laws;
- n. Defendants allowed for District staff to alter and falsify the Investigative Report;
- o. Defendants did not provide Mr. Stanek with all documentation needed for Mr. Stanek to make an impartial disposition based on all facts, rather Defendants

provided Mr. Stanek with the information they wanted him to have (Findings Report and Investigative Report);

- p. Defendants chose not to provide Plaintiff any form of additional support or accommodation on this trip apart from that provided to all the students collectively;
- q. Defendants did not provide Plaintiff with a para, or any other form of one-on-one or direct adult supervision or support even though they were aware of Plaintiff's disabilities and needs;
- r. Rather, Defendants provided coaches who acted as general chaperone for groups of students.
- s. Plaintiff was one of many students in such a group and did not receive special support or supervision from his chaperone;
- t. Prior to July 19, 2022, Defendants had notice of PCHS's willful failure to comply with District and CHSSA field trip policies;
- u. PCHS and District had notice that accommodations required in school settings were not discharged when students participated in traveling athletics;
- v. District had specific notice that PCHS willfully planned not to accommodate players with special needs on the trip and failed to take corrective action;
- w. The BOE also had specific prior notice of PCHS failures but, likewise, failed to take any corrective action;
- x. Defendants had general notice that some players on the traveling football team were disabled, within the meaning of the ADA, and required accommodations under their various IEP and 504 plans;

- y. Prior to August 25, 2022, PCHS was on notice that Plaintiff and other student-players on its traveling football team required accommodations;
- z. Defendants also had specific notice that PCHS was required to provide accommodations on the PCHS football trip but purposefully and willfully declined;
- aa. Between July 20, 2022 and August 25, 2022, neither the BOE, District, nor PCHS took corrective, nor any significant, action regarding special needs accommodations for the traveling football team;
- bb. The involvement of the Club does not excuse either PCHS or the District from their duties under the ADA for school activities;
- cc. PCHS completed its initial Title IX investigation and produced Findings Report which concluded that Plaintiff was harassed while on the August 26, 2022, football field trip;
  - i. The Report announced PCHS adopted the following interim measures:
    - 1. Plaintiff and the, then-alleged, perpetrators would be provided access to their grade school counselor; and
    - 2. Plaintiff would be provided access to his case manager.
  - ii. The Report then promulgated the following remedies:
    - 1. All students involved would be granted access to their grade level counselor;
    - 2. All students involved would be granted access to PCHS administrative personnel; and



3. The student suspects were assigned appropriate school consequences.

dd. The Findings Report did not detail that the harassment was sexual in nature, nor that fellow students perpetrated the unlawful sexual crime.

ee. The Findings Report did not address the self-evident concern that Plaintiff, who's disability significantly manifests in issues with independent cognition and communication, amongst other areas, would receive minimal if any benefit from access to PCHS staff.

ff. PCHS willfully continued to cause harm to the Plaintiff by discriminating against him due to his disabilities by not providing accommodations to interview Plaintiff so he could state what happened to him during the unlawful sexual crime committed against him;

gg. PCHS willfully retaliated against him for being victimized as evidenced by attempting to take away and discontinue speech and occupational therapies;

hh. PCHS willfully retaliated against him by restricting him from participation in end-of-the-year football activities, yet, allowed the student suspects to participate in such activities;

ii. PCHS willfully caused harm to Plaintiff as seen with their failure to act and make mandatory reports in attempts to cover up the unlawful sexual misconduct committed against Plaintiff;

jj. PCHS Principal Cormaney willfully disclosing Plaintiff PII, violating Federal laws, causing people, specifically, one of the suspects parents, to know Plaintiff's PII, without permission;

- kk. As a result of the Defendants willful failure to act, Plaintiff was significantly harm as seen through his new diagnosis of PTSD and experiencing suicidal ideation;
- ll. Self-injurious behavior resulting in the Plaintiff requiring emergent transport, via ambulance, to receive medical intervention for injury;
- mm. Plaintiff requiring surgery for self-injurious behavior;
- nn. The impact of this unlawful sexual crime (traumatic event) committed against the Plaintiff could not be determined by Dr. Vaira;
- oo. Because impact of this unlawful sexual crime committed against the Plaintiff could not be determined for the Plaintiff, it is unknown how, when, or length of time Plaintiff will need to recover from this unlawful sexual crime committed against him,
  - i. PTSD symptoms could persistently occur throughout his lifetime;
- pp. Plaintiff requires mental health therapy on an ongoing and as needed basis as a result of this unlawful sexual crime committed against him;
- qq. PCHS did not meet Plaintiff's educational needs as evidenced by the IEE Report which indicates disability statements were not supported with accommodations to meet Plaintiff's needs;
- rr. Plaintiff requires ongoing speech and occupational therapies, as well as other accommodations, modifications, and services to address Plaintiff's disability needs, because PCHS did not address needs while Plaintiff was at PCHS, for the Plaintiff to be able to benefit and communicate from and in academic, extracurricular, and community settings;

- ss. Defendants did not provide an impartial investigation on multiple occasions as seen within multiple reports;
- tt. Defendants altered and falsified documents to further cover up the unlawful sexual crime committed against Plaintiff as seen in multiple reports;
- uu. Defendants interfered with federal investigation (Title IX) causing disposition and actions to be impartial, harmful, discriminatory, and retaliatory which led to Plaintiff being significantly harmed;
- vv. Plaintiff was humiliated by way of the student suspects causing the entire student body to become aware of and see videos of Plaintiff, which further caused harm to his reputation,
  - i. This also interfered with Plaintiff's ability to benefit from the academic, extracurricular, and learning environments as evidenced by the meaningful relationships Plaintiff once had with other students became nonexistent;
- ww. Plaintiff was excluded and restricted from participating in end-of-the-year football activities which resulted in Plaintiff not participating in other senior school events;
  - i. Plaintiff was fearful to attend PCHS senior events and did not attend such events because he feared being further harmed and he did not feel safe;
  - ii. This caused the Plaintiff to be harmed during senior year rather than benefitting or having fun his senior year;
- xx. PCHS and District willfully attempted to cover-up this unlawful sexual crime committed against Plaintiff as seen by PCHS and District willfully failing to make required mandatory reports as required by Federal laws;

- yy. Defendants caused additional harm as evidenced by taking Plaintiff's and Plaintiff's Mother's civil rights and liberties away causing Plaintiff and Plaintiff's Mother inability to receive justice for the crime that was committed against Plaintiff; and
- zz. Defendants continue to willfully fail to act and redress, which is a violation of Plaintiff's civil rights and liberties.

**D. Statement of Claim: Americans with Disabilities Act**

- a. Plaintiff's conditions alleged herein constitute disabilities protected under the *Americans with Disabilities Act*.
- b. Plaintiff was and is qualified as an individual with a disability, according to Federal law.
- c. Plaintiff is a qualified student with disabilities, according to Federal law, and is qualified to attend PCHS and participate on the PCHS football team.
- d. District and PCHS had knowledge of Plaintiff's disabilities and need for accommodations beginning in 2020 and throughout Plaintiff's enrollment at PCHS.
- e. Defendants were put on notice about the need for accommodations for Plaintiff and other PCHS football players with IEPs and 504 Plans, before the out-of-state PCHS football team field trip.
- f. Defendants had knowledge of Plaintiff's need for reasonable accommodations before Plaintiff attended the out-of-state PCHS football field trip.
- g. Defendants made the decision to willfully discriminate against Plaintiff, on the basis of his disability, by way of denying the Plaintiff reasonable accommodations, such as providing the Plaintiff with a para for supervision and chaperone, while Plaintiff attended the out-of-state PCHS football field trip.
- h. Defendants made the decision to willfully discriminate against the Plaintiff, on the basis of his disability, by way of Plaintiff being excluded and denied the benefits of PCHS's services, programs, and activities, such as speech and occupational therapies, in addition to the football program and activities.

- i. Defendants made the decision to willfully discriminate against Plaintiff, on the basis of his disability, by way of Plaintiff being excluded from participation in the PCHS football team program and activities, while on the out-of-state field trip.
- j. Defendant's decision to willfully discriminate against Plaintiff, on the basis of his disabilities, by way of denying Plaintiff accommodations, on or about and between January 12, 2022 and August 25, 2022, for the out-of-state PCHS football program field trip, and for the duration of the field trip, was a failure to reasonably accommodate Plaintiff's disabilities and needs.
- k. Defendants' decision to willfully deny Plaintiff accommodations, so the Plaintiff could participate in and benefit from the PCHS football field trip, was a willful failure to reasonably accommodate Plaintiff's disabilities and needs, which resulted in:
  - 1. Plaintiff being unsupervised and without chaperon;
    - 1. Plaintiff being victimized by way of an unlawful sexual crime;
    - 2. Plaintiff was subjected to further victimization; and
    - 3. Plaintiff was unable to benefit from participating in PCHS football program and football field trip activities.
- m. Plaintiff's reasonable accommodations would not have imposed an undue hardship or administrative burden onto Defendants.
- n. Plaintiff's reasonable accommodations would not have required Defendants to make any fundamental change to the nature of its programs, services, or activities.

- o. Plaintiff could have benefitted from the PCHS football team field trip game if Defendants did not deny him accommodations, at which Plaintiff would not have been victimized.
- p. Plaintiff could have accessed the benefits of participating in the PCHS football team field trip game if reasonable accommodations were provided.
- q. Defendants' willful violations of Plaintiff's rights under the *Americans with Disabilities Act* have caused him to suffer damages, including, but not limited to, psychological, emotional, physical injury, and reputational damages in addition to economic damages and costs in this action.

**E. REQUEST FOR RELIEF: Americans with Disabilities Act**

- a. Plaintiff requests that the Court enter judgment in his favor and against Defendants (PCHS, District, and Board of Education) by:
  - i. Awarding the Plaintiff economic damages, including out-of-pocket expenses to be established at trial;
  - ii. Awarding the Plaintiff emotional upset, stress, and anxiety, and hedonic damages in an amount to be established at trial;
  - iii. Awarding the Plaintiff psychological damages in an amount to be established at trial;
  - iv. Awarding the Plaintiff physical injury damages in an amount to be established at trial;
  - v. Awarding the Plaintiff reputational damages in an amount to be established at trial;



- vi. Awarding the Plaintiff out-of-pocket expenses, litigation costs, and filing fees in amounts to be established at trial;
- vii. Awarding the Plaintiff with punitive damages in the maximum amount permitted by law;
- viii. Awarding the Plaintiff statutory and reasonable filing fees, litigation expenses and costs incurred in this action;
- ix. Awarding Plaintiff with lifetime access to rehabilitative therapies (e.g. speech, occupational, physical, etc.) to be paid for by the Defendants;
- x. Awarding the Plaintiff with lifetime access to behavioral health therapies, providers, and services (e.g. mental health, physical health, medical, inpatient, outpatient, assessment and evaluation, case management, peer support, treatment, entertainment and leisure activities, home health, home care, group activities, sports activities, etc.) to be paid for by the Defendants;
- xi. Awarding the Plaintiff with covered and paid expenses, paid for by the defendants, for Plaintiff to participate in the Bridges Transition Program, from now and for the next three years, to include programming five days per week, with transportation, services, accommodations, and modifications from now until Plaintiff completes the Bridges Program and this is to include programming over the Summers through the Bridges program or other recreational programming that Plaintiff could benefit from.

- xii. Awarding the plaintiff with covered and paid expenses, paid for by the Defendants, for the Plaintiff to attend post-secondary education with all accommodations, services, transportation, and modifications to be paid at the expense of Defendants.
  - xiii. Awarding the Plaintiff with lifetime covered and paid expenses, paid for by the Defendants, for extracurricular activities both within the District and in the community such as football through Special Olympics and other recreational activities.
  - xiv. Awarding Plaintiff with lifetime access to transportation, to and from appointments, for rehabilitative therapies and behavioral health therapies, providers, and services, to be paid for by the Defendants; and
  - xv. Awarding the Plaintiff any additional and further relief that the Court finds equitable appropriate, and just.
- b. Requiring Defendants to remove any and all adverse documentation, regarding this unlawful sexual crime committed against Plaintiff, from Plaintiff's educational record.
  - c. Requiring Defendants to report their violations of Federal law to the Office of Civil Rights and comply with remedies and penalties as established by the Office of Civil Rights;
    - i. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to the Office of Civil Rights with remedies and consequences, and what the Defendants' plan is to meet

remedy and consequences requirements. This must be completed within sixty (60) days after judgement.

- ii. If the Defendants fail to make notification of violations to the Office of Civil Rights and provide proof to Plaintiff and Plaintiff's Mother, it will result in a class action lawsuit comprised of Plaintiff and all District students who are identified as students with disabilities.

- d. Requiring Defendants to report their violations of Federal law to the Colorado Department of Education and comply with remedies and penalties as established by the Colorado Department of Education;

- i. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to the Colorado Department of Education with remedies and consequences, and what the Defendants' plan is to meet remedy and consequences requirements. This must be done sixty (60) days after judgement.

- ii. If the Defendants fail to make notification of violations to the Colorado Department of Education and fail to provide proof to Plaintiff and Plaintiff's Mother, it will result in a class action lawsuit comprised of Plaintiff and all District students who are identified as students with disabilities.

- e. Requiring Defendants to report their violations of Federal law to CHSAA and comply with remedies and penalties as established by CHSSA;

- i. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to CHSAA with remedies

and consequences, and what the Defendants' plan is to meet remedy and consequences requirements.

ii. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to CHSAA with remedies and consequences, and what the Defendants' plan is to meet remedy and consequences requirements. This must be done sixty (60) days after judgement.

iii. If the Defendants fail to make notification of violations to the Colorado Department of Education and fail to provide proof to Plaintiff and Plaintiff's Mother, it will result in a class action lawsuit comprised of Plaintiff and all District students who are identified as students with disabilities.

f. Requiring Defendants to review, improve, and adapt policies and procedures, including BOE policies, District policies, schools (all schools in the District), that align with Federal disability laws that are free from discrimination and retaliation, and explicitly state consequences for those who do not adhere and comply with policies and procedures.

i. Board of Education policies and procedures must not be up for interpretation by PCHS or other District schools, and must explicitly be written and in alignment with Federal laws to assure civil rights and liberties of students with disabilities and their family members are not violated.

- ii. For all policies and procedures Defendants must write a comment of how the policies and procedures align with Federal laws (Federal laws include and is not limited to Title IX law, ADA, law, Section 504 of the Rehabilitation Act of 1973, Effective Communication, civil rights and liberties, mandatory reporting laws, and any other laws the Court determines appropriate).
- iii. Once policies and procedures are created, Defendants must provide a copy of their proposed policies and procedures to Plaintiff and Plaintiff's Mother, and all parents of students with disabilities within the District and school(s), for review, modifications, and approval.
- iv. District, PCHS, and BOE updated policies and procedures must be provided to Plaintiff and Plaintiff's Mother within sixty (60) days of this judgement.
- v. District, PCHS, and BOE updated policies and procedures must be provided to all District students with disabilities for review within ninety (90) days of this judgement.
- vi. Requiring Defendants to host a meeting between students with disabilities and their parents to review policies and procedures and make changes to policies and procedures based on the feedback from students with disabilities and their parents.
- vii. Policies and procedures will not become official until students with disabilities and their parents vote to approve policies and procedures.

1. Voting must be conducted by an external organization who the Plaintiff and Plaintiff's Mother deem appropriate.
  2. Voting must not take place no later than one-hundred and twenty (120) days from judgement.
- g. Requiring Defendants to participate in annual training on Federal laws disability to include and is not limited to Title IX law, ADA, law, Section 504 of the Rehabilitation Act of 1973, Effective Communication, civil rights and liberties, and any other laws the Court determines appropriate.
- h. Requiring Defendants to create a process where parents of students with disabilities have direct access to BOE members and the process is to be approved by Plaintiff and Plaintiff's Mother.
- i. Process must include BOE meeting with parents of and students with disabilities directly.
  - ii. When BOE members meet with concerned parents, a resolution plan must be created between BOE and parents of students with disabilities.
  - iii. Resolution template to be created by Defendants and approved by Plaintiff, Plaintiff's Mother, and other parents and students with disabilities in the District (immediately after judgement).
- i. Requiring Defendants to provide students with disabilities and their families with the contact number and information for the (immediately after judgement):
- i. Colorado Department of Education AND, how to:
    1. File a formal complaint with the Colorado Department of Education against an educator, school, district, or board; and

2. File a complaint against an educator's license, for engaging in unlawful or unethical behavior, through the Colorado Department of Education.

- ii. Office of Civil Rights AND, how to:

1. File a formal complaint against educator, school, district, or board for a violation of a student's civil rights.

- j. Termination of Defendants from the District to prevent further harm to Plaintiff or other students with disabilities and their families.
- k. Requiring Defendants to immediately, from the date of judgement, provide relief to Plaintiff.

**F. Statement of Claim: Section 504 of the Rehabilitation Act of 1973**

- a. Plaintiff's conditions alleged herein constitute disabilities protected under the *Section 504 of the Rehabilitation Act of 1973*.
- b. Plaintiff was and is qualified as an individual with a disability, according to Federal law.
- c. Plaintiff is a qualified student with disabilities, according to Federal law, and is qualified to attend PCHS and participate on the PCHS football team.
- d. District and PCHS had knowledge of Plaintiff's disabilities and need for accommodations beginning in 2020 and throughout Plaintiff's enrollment at PCHS.
- e. PCHS's decision to willfully deny Plaintiff accommodations on or about and between August 25, 2022 and August 27, 2022, during the PCHS football



fieldtrip, was a failure to reasonably accommodate Plaintiff's disabilities and needs, which resulted in:

- i. Plaintiff being unsupervised and without chaperon;
  - ii. Plaintiff being victimized by way of an unlawful sexual crime;
  - iii. Plaintiff to be subjected to further victimization; and
  - iv. Plaintiff was unable to benefit from participating in PCHS football program and football fieldtrip activities.
- f. Defendants' decision to willfully deny Plaintiff accommodations and services to provide Plaintiff with an aid, benefit, or service that is effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as provided to others, was a failure to reasonably accommodate Plaintiff's disabilities.
- g. Plaintiff's reasonable accommodations and services would not have imposed an undue hardship.
- h. Plaintiff's reasonable accommodations and services would not have required PCHS to make any fundamental change to the nature of its programs.
- i. PCHS willfully retaliated against Plaintiff while Plaintiff was participating in a protected activities and, both Plaintiff and Plaintiff's Mother participating in and initiating multiple investigations.
- j. PCHS willfully retaliated against Plaintiff while Plaintiff and Plaintiff's Mother for asserting their civil rights and liberties afforded by Federal laws.
- k. PCHS and District willfully retaliated against Plaintiff by recommending Plaintiff's services be discontinued at the end of the academic year, or minimized

compared to IEE recommendations, in knowing Plaintiff could not benefit from the academic, extracurricular, and learning settings without such services.

- l. PCHS and District willfully retaliated against Plaintiff by not providing accommodations and services for disability statements documented in Plaintiff's, then recent (December 2022) IEP, in knowing Plaintiff could not benefit from the academic, extracurricular, and learning settings without such accommodations and services.
- m. PCHS and District willfully retaliated against Plaintiff by excluding Plaintiff from participating in end-of-the-year football activities which led to Plaintiff being fearful to participate in other PCHS senior end-of-the-year activities, resulting in the Plaintiff not benefiting from the academic, extracurricular, and learning settings.
- n. The District took no action or no corrective action against PCHS for acts of discrimination or retaliation to exclude accommodations and services from Plaintiff that supported the Plaintiff from benefiting from the academic, extracurricular, and learning settings, once they became aware of such discriminatory and retaliatory acts of PCHS.
- o. The Board of Education took no action or no corrective action against PCHS for acts of discrimination or retaliation to exclude accommodations and services from Plaintiff that supported the Plaintiff from benefiting from the academic, extracurricular, and learning settings, once they became aware of such discriminatory and retaliatory acts of PCHS.

- p. Defendants' willful violations of Plaintiff's rights under the *Section 504 of the Rehabilitation Act of 1973* have caused him to suffer damages, including, but not limited to, psychological, emotional, physical injury, and reputational damages in addition to economic damages and costs in this action.

**G. REQUEST FOR RELIEF: Section 504 of the Rehabilitation Act 1973**

- a. Plaintiff requests that the Court enter judgment in his favor and against Defendants (PCHS, District, and Board of Education) by:
  - i. Awarding the Plaintiff economic damages, including out-of-pocket expenses to be established at trial;
  - ii. Awarding the Plaintiff emotional upset, stress, and anxiety, and hedonic damages in an amount to be established at trial;
  - iii. Awarding the Plaintiff psychological damages in an amount to be established at trial;
  - iv. Awarding the Plaintiff physical injury damages in an amount to be established at trial;
  - v. Awarding the Plaintiff reputational damages in an amount to be established at trial;
  - vi. Awarding the Plaintiff out-of-pocket expenses, litigation costs, and filing fees in amounts to be established at trial;
  - vii. Awarding the Plaintiff with punitive damages in the maximum amount permitted by law;
  - viii. Awarding the Plaintiff statutory and reasonable filing fees, litigation expenses and costs incurred in this action;

- ix. Awarding Plaintiff with lifetime access to rehabilitative therapies (e.g. speech, occupational, physical, etc.) to be paid for by the Defendants;
- x. Awarding the Plaintiff with lifetime access to behavioral health therapies, providers, and services (e.g. mental health, physical health, medical, inpatient, outpatient, assessment and evaluation, case management, peer support, treatment, entertainment and leisure activities, home health, home care, group activities, sports activities, etc.) to be paid for by the Defendants;
- xi. Awarding Plaintiff with lifetime access to transportation, to and from appointments, for rehabilitative therapies and behavioral health therapies, providers, and services, to be paid for by the Defendants; and
- xii. Awarding the Plaintiff any additional and further relief that the Court finds equitable appropriate, and just.
- xiii. Awarding the Plaintiff with covered and paid expenses, paid for by the defendants, for Plaintiff to participate in the Bridges Transition Program, from now and for the next three years, to include programming five days per week, with transportation, services, accommodations, and modifications from now until Plaintiff completes the Bridges Program and this is to include programming over the Summers through the Bridges program or other recreational programming that Plaintiff could benefit from.
- xiv. Awarding the plaintiff with covered and paid expenses, paid for by the Defendants, for the Plaintiff to attend post-secondary education with all

accommodations, services, transportation, and modifications to be paid at the expense of Defendants.

- xv. Awarding the Plaintiff with lifetime covered and paid expenses, paid for by the Defendants, for extracurricular activities both within the District and in the community such as football through Special Olympics and other recreational activities.
- b. Requiring Defendants to remove any and all adverse documentation, regarding this unlawful sexual crime committed against Plaintiff, from Plaintiff's educational record.
- c. Requiring Defendants to report their violations of Federal law to the Office of Civil Rights and comply with remedies and penalties as established by the Office of Civil Rights;
  - i. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to the Office of Civil Rights with remedies and consequences, and what the Defendants' plan is to meet remedy and consequences requirements. This must be completed within sixty (60) days after judgement.
  - ii. If the Defendants fail to make notification of violations to the Office of Civil Rights and provide proof to Plaintiff and Plaintiff's Mother, it will result in a class action lawsuit comprised of Plaintiff and all District students who are identified as students with disabilities.

- d. Requiring Defendants to report their violations of Federal law to the Colorado Department of Education and comply with remedies and penalties as established by the Colorado Department of Education;
  - i. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to the Colorado Department of Education with remedies and consequences, and what the Defendants' plan is to meet remedy and consequences requirements. This must be done sixty (60) days after judgement.
  - ii. If the Defendants fail to make notification of violations to the Colorado Department of Education and fail to provide proof to Plaintiff and Plaintiff's Mother, it will result in a class action lawsuit comprised of Plaintiff and all District students who are identified as students with disabilities.
- e. Requiring Defendants to report their violations of Federal law to CHSAA and comply with remedies and penalties as established by CHSSA;
  - i. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to CHSAA with remedies and consequences, and what the Defendants' plan is to meet remedy and consequences requirements.
  - ii. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to CHSAA with remedies and consequences, and what the Defendants' plan is to meet remedy and

consequences requirements. This must be done sixty (60) days after judgement.

- iii. If the Defendants fail to make notification of violations to the Colorado Department of Education and fail to provide proof to Plaintiff and Plaintiff's Mother, it will result in a class action lawsuit comprised of Plaintiff and all District students who are identified as students with disabilities.
- f. Requiring Defendants to make a public statement of their violations of Federal law to local news outlets and print media, with plan on how they will prevent violating Federal law moving forward. Plan to be approved by Plaintiff and Plaintiff's Mother. Public announcement must be made within thirty (30) days from judgement.
- g. Requiring Defendants to review, improve, and adapt policies and procedures, including BOE policies, District policies, schools (all schools in the District), that align with Federal disability laws that are free from discrimination and retaliation, and explicitly state consequences for those who do not adhere and comply with policies and procedures.
  - i. Board of Education policies and procedures must not be up for interpretation by PCHS or other District schools, and must explicitly be written and in alignment with Federal laws to assure civil rights and liberties of students with disabilities and their family members are not violated.

- ii. Requiring Defendants to hire an external agency to support with development of policies and procedures on Federal laws and the external organization must be approved by Plaintiff and Plaintiff's Mother before retained. External agency must be retained within thirty (30) days of judgement.
- iii. For all policies and procedures Defendants must write a comment of how the policies and procedures align with Federal laws (Federal laws include and is not limited to Title IX law, ADA, law, Section 504 of the Rehabilitation Act of 1973, Effective Communication, civil rights and liberties, and any other laws the Court determines appropriate).
- iv. Once policies and procedures are created, Defendants must provide a copy of their proposed policies and procedures to Plaintiff and Plaintiff's Mother, and all parents of students with disabilities within the District and school(s), for review, modifications, and approval.
- v. District, PCHS, and BOE updated policies and procedures must be provided to Plaintiff and Plaintiff's Mother within sixty (60) days of this judgement.
- vi. District, PCHS, and BOE updated policies and procedures must be provided to all District students with disabilities for review within ninety (90) days of this judgement.
- vii. Requiring Defendants to host a meeting between students with disabilities and their parents to review policies and procedures and make changes to



policies and procedures based on the feedback from students with disabilities and their parents.

viii. Policies and procedures will not become official until students with disabilities and their parents vote to approve policies and procedures.

1. Voting must be conducted by an external organization who the Plaintiff and Plaintiff's Mother deem appropriate.

2. Voting must not take place no later than one-hundred and twenty (120) days from judgement.

h. Requiring Defendants to participate in annual training on Federal laws disability to include and is not limited to Title IX law, ADA, law, Section 504 of the Rehabilitation Act of 1973, Effective Communication, civil rights and liberties, and any other laws the Court determines appropriate.

i. Requiring Defendants to create a process where parents of students with disabilities have direct access to BOE members and the process is to be approved by Plaintiff and Plaintiff's Mother.

i. Process must include BOE meeting with parents of and students with disabilities directly.

ii. When BOE members meet with concerned parents, a resolution plan must be created between BOE and parents of students with disabilities.

iii. Resolution template to be created by Defendants and approved by Plaintiff, Plaintiff's Mother, and other parents and students with disabilities in the District (immediately after judgement).

- j. Requiring Defendants to provide students with disabilities and their families with the contact number and information for the (immediately after judgement):
  - i. Colorado Department of Education AND, how to:
    - 1. File a formal complaint with the Colorado Department of Education against an educator, school, district, or board; and
    - 2. File a complaint against an educator's license, for engaging in unlawful or unethical behavior, through the Colorado Department of Education.
  - ii. Office of Civil Rights AND, how to:
    - 1. File a formal complaint against educator, school, district, or board for a violation of a student's civil rights.
- k. Requiring Defendants to immediately, from the date of judgement, provide relief to Plaintiff.
- l. Requiring Defendants to participate in annual training on *Section 504 of the Rehabilitation Act of 1973* and mandatory reporting laws.
- m. Requiring Defendants to provide students with disabilities and their families with the contact number and information for the:
  - i. Colorado Department of Education AND, how to:
    - 1. File a formal complaint with the Colorado Department of Education against an educator, school, district, or board; and
    - 2. File a complaint against an educator's license, for engaging in unlawful or unethical behavior, through the Colorado Department of Education.

ii. Office of Civil Rights AND, how to:

1. File a formal complaint against educator, school, district, or board for a violation of a student's civil rights.

- n. Requiring Defendants to make a public statement of their violations of Federal law to local news outlets and print media, with plan on how they will prevent violating Federal law moving forward. Plan to be approved by Plaintiff and Plaintiff's Mother. Public announcement must be made within thirty (30) days from judgement.
- o. Termination of Defendants from the District to prevent further harm to Plaintiff or other students with disabilities and their families.
- p. Requiring Defendants to immediately, from the date of judgement, provide relief to Plaintiff.

#### **H. Statement of Claim: Effective Communication for Individuals with Disabilities**

- a. Plaintiff's conditions alleged herein constitute disabilities protected under the *Effective Communication for Individuals with Disabilities*.
- b. Plaintiff was and is qualified as an individual with a disability, according to Federal law.
- c. Plaintiff is a qualified student with disabilities, according to Federal law, and is qualified to attend PCHS and participate on the PCHS football team.
- d. District and PCHS had knowledge of Plaintiff's disabilities and need for accommodations beginning in 2020 and throughout Plaintiff's enrollment at PCHS.

- e. PCHS's decision to willfully deny Plaintiff accommodations on or about and between August 25, 2022 and August 27, 2022, during the PCHS football fieldtrip, was a failure to reasonably accommodate Plaintiff's disabilities and needs, which resulted in:
  - i. Plaintiff being unsupervised and without chaperon;
  - ii. Plaintiff being victimized by way of an unlawful sexual crime;
  - iii. Plaintiff to be subjected to further victimization; and
  - iv. Plaintiff was unable to benefit from participating in PCHS football program and football fieldtrip activities.
- f. Defendants' decision to willfully deny Plaintiff accommodations and services to provide Plaintiff with an aid, benefit, or service that is effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as provided to others, was a failure to reasonably accommodate Plaintiff's disabilities.
- g. Plaintiff's reasonable accommodations and services would not have imposed an undue hardship.
- h. Plaintiff's reasonable accommodations and services would not have required PCHS to make any fundamental change to the nature of its programs.
- i. PCHS's decision to willfully deny Plaintiff accommodations and services to provide Plaintiff with an aid, benefit, or service that is effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as provided to others, was a failure to reasonably

accommodate Plaintiff's disabilities, specifically, on the basis that the Plaintiff is NON-VERBAL.

- j. PCHS's decision to willfully deny Plaintiff with an aid, for effective communication, benefit, accommodations, or services that is effective in affording equal opportunity for the Plaintiff to voice and report what happened to him during and after victimization, was a failure to reasonably accommodate Plaintiff's disabilities, specifically, on the basis that the Plaintiff is NON-VERBAL.
- k. PCHS's decision to willfully deny Plaintiff accommodations and services to be able to participate and effectively communicate, in a meeting and an interview, was PCHS's failure to reasonably accommodate Plaintiff's disabilities, specifically, on the basis that the Plaintiff is NON-VERBAL.
- l. District's decision to willfully deny Plaintiff the opportunity to interview and meet with District investigator and report the crime committed against him, was a failure to reasonably accommodate Plaintiff's disabilities, specifically, on the basis that the Plaintiff is NON-VERBAL.
- m. Plaintiff's reasonable accommodations and services would not have imposed an undue hardship.
- n. Plaintiff's reasonable accommodations and services would not have required PCHS to make any fundamental change to the nature of its programs.
- o. Plaintiff's reasonable accommodations and services would not have required District to make any fundamental changes to the nature of their investigative processes.

- p. The Board of Education did not instruct nor enforce PCHS or District to provide Plaintiff with accommodations so Plaintiff could effectively communicate and participate in an interview at PCHS.
- q. The Board of Education did not require District level investigator to interview Plaintiff, even though he was the victim of the unlawful sexual crime.
- r. The Board of Education did not enforce any corrective action against PCHS or District for their failure to provide accommodations and services, for effective communication, for the Plaintiff.
- s. Defendants did not ensure Plaintiff could communicate with, receive information from, and convey information to them.
- t. Defendants did not provide any aids, accommodations, or services to communicate effectively with Plaintiff and so the Plaintiff could communicate effectively.
- u. Defendants' willful violations of Plaintiff's rights under the *American's with Disabilities Act, Effective Communication for Individuals with Disabilities* have caused him to suffer damages, including, but not limited to, psychological, emotional, physical injury, and reputational damages in addition to economic damages and costs in this action.

**I. REQUEST FOR RELIEF: Effective Communication for Individuals with Disabilities**

- a. Plaintiff requests that the Court enter judgment in his favor and against Defendants (PCHS, District, and Board of Education) by:
  - i. Awarding the Plaintiff economic damages, including out-of-pocket expenses to be established at trial;

- ii. Awarding the Plaintiff emotional upset, stress, and anxiety, and hedonic damages in an amount to be established at trial;
- iii. Awarding the Plaintiff psychological damages in an amount to be established at trial;
- iv. Awarding the Plaintiff physical injury damages in an amount to be established at trial;
- v. Awarding the Plaintiff reputational damages in an amount to be established at trial;
- vi. Awarding the Plaintiff out-of-pocket expenses, litigation costs, and filing fees in amounts to be established at trial;
- vii. Awarding the Plaintiff with punitive damages in the maximum amount permitted by law;
- viii. Awarding the Plaintiff statutory and reasonable filing fees, litigation expenses and costs incurred in this action;
- ix. Awarding Plaintiff with lifetime access to rehabilitative therapies (e.g. speech, occupational, physical, etc.) to be paid for by the Defendants;
- x. Awarding Plaintiff with lifetime access to a new Augmentative and Alternative Communication (“AAC”) device, every three (3) years, at the expense of and to be paid for by the Defendants;
- xi. Awarding the Plaintiff with lifetime access to behavioral health therapies, providers, and services (e.g. mental health, physical health, medical, inpatient, outpatient, assessment and evaluation, case management, peer support, treatment, entertainment and leisure activities, home health, home

care, group activities, sports activities, etc.) to be paid for by the Defendants;

- xii. Awarding Plaintiff with lifetime access to transportation, to and from appointments, for rehabilitative therapies and behavioral health therapies, providers, and services, to be paid for by the Defendants; and
- xiii. Awarding the Plaintiff any additional and further relief that the Court finds equitable appropriate, and just.
- xiv. Awarding the Plaintiff with covered and paid expenses, paid for by the defendants, for Plaintiff to participate in the Bridges Transition Program, from now and for the next three years, to include programming five days per week, with transportation, services, accommodations, and modifications from now until Plaintiff completes the Bridges Program and this is to include programming over the Summers through the Bridges program or other recreational programming that Plaintiff could benefit from.
- xv. Awarding the plaintiff with covered and paid expenses, paid for by the Defendants, for the Plaintiff to attend post-secondary education with all accommodations, services, transportation, and modifications to be paid at the expense of Defendants.
- xvi. Awarding the Plaintiff with lifetime covered and paid expenses, paid for by the Defendants, for extracurricular activities both within the District and in the community such as football through Special Olympics and other recreational activities.



- b. Requiring Defendants to create and adopt a compliance plan that states how they are going to meet the needs of students with disabilities who require effective communication aids, accommodations, and services.
  - i. This compliance plan shall be reviewed and updated on an annual basis, at the beginning of each academic year, to ensure the evolving communication needs of students with disabilities are met and not missed.
  - ii. The compliance plan shall explicitly state how Defendants will assure students of timely access to effective communication aids, accommodations, and services.
  - iii. The compliance plan shall include policies and procedures that assure students with disabilities who have effective communication needs, are needs that are getting met.
  - iv. The compliance plan must explicitly state how the compliance plan aligns with Federal law, effective communication.
  - v. The compliance plan must explicitly state consequences for not adhering to plan, policies, and procedures.
- c. Requiring Defendants to remove any and all adverse documentation, regarding this unlawful sexual crime committed against Plaintiff, from Plaintiff's educational record.
- d. Requiring Defendants to report their violations of Federal law to the Office of Civil Rights and comply with remedies and penalties as established by the Office of Civil Rights;

- i. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to the Office of Civil Rights with remedies and consequences, and what the Defendants' plan is to meet remedy and consequences requirements. This must be completed within sixty (60) days after judgement.
  - ii. If the Defendants fail to make notification of violations to the Office of Civil Rights and provide proof to Plaintiff and Plaintiff's Mother, it will result in a class action lawsuit comprised of Plaintiff and all District students who are identified as students with disabilities.
- e. Requiring Defendants to report their violations of Federal law to the Colorado Department of Education and comply with remedies and penalties as established by the Colorado Department of Education;
  - i. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to the Colorado Department of Education with remedies and consequences, and what the Defendants' plan is to meet remedy and consequences requirements. This must be done sixty (60) days after judgement.
  - ii. If the Defendants fail to make notification of violations to the Colorado Department of Education and fail to provide proof to Plaintiff and Plaintiff's Mother, it will result in a class action lawsuit comprised of Plaintiff and all District students who are identified as students with disabilities.

- f. Requiring Defendants to report their violations of Federal law to CHSAA and comply with remedies and penalties as established by CHSSA;
  - i. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to CHSAA with remedies and consequences, and what the Defendants' plan is to meet remedy and consequences requirements.
  - ii. Requiring Defendants to provide proof, in writing, to Plaintiff and Plaintiff's Mother of reporting such violations to CHSAA with remedies and consequences, and what the Defendants' plan is to meet remedy and consequences requirements. This must be done sixty (60) days after judgement.
  - iii. If the Defendants fail to make notification of violations to the Colorado Department of Education and fail to provide proof to Plaintiff and Plaintiff's Mother, it will result in a class action lawsuit comprised of Plaintiff and all District students who are identified as students with disabilities.
- g. Requiring Defendants to review, improve, and adapt policies and procedures, including BOE policies, District policies, schools (all schools in the District), that align with Federal disability laws that are free from discrimination and retaliation, and explicitly state consequences for those who do not adhere and comply with policies and procedures.
  - i. Board of Education policies and procedures must not be up for interpretation by PCHS or other District schools, and must explicitly be

written and in alignment with Federal laws to assure civil rights and liberties of students with disabilities and their family members are not violated.

- ii. For all policies and procedures Defendants must write a comment of how the policies and procedures align with Federal laws (Federal laws include and is not limited to Title IX law, ADA, law, Section 504 of the Rehabilitation Act of 1973, Effective Communication, civil rights and liberties, mandatory reporting, and any other laws the Court determines appropriate).
- iii. Once policies and procedures are created, Defendants must provide a copy of their proposed policies and procedures to Plaintiff and Plaintiff's Mother, and all parents of students with disabilities within the District and school(s), for review, modifications, and approval.
- iv. District, PCHS, and BOE updated policies and procedures must be provided to Plaintiff and Plaintiff's Mother within sixty (60) days of this judgement.
- v. District, PCHS, and BOE updated policies and procedures must be provided to all District students with disabilities for review within ninety (90) days of this judgement.
- vi. Requiring Defendants to host a meeting between students with disabilities and their parents to review policies and procedures and make changes to policies and procedures based on the feedback from students with disabilities and their parents.

- vii. Policies and procedures will not become official until students with disabilities and their parents vote to approve policies and procedures.
  - 1. Voting must be conducted by an external organization who the Plaintiff and Plaintiff's Mother deem appropriate.
  - 2. Voting must not take place no later than one-hundred and twenty (120) days from judgement.
- h. Requiring Defendants to participate in annual training on Federal laws disability to include and is not limited to Title IX law, ADA, law, Section 504 of the Rehabilitation Act of 1973, Effective Communication, civil rights and liberties, and any other laws the Court determines appropriate.
- i. Requiring Defendants to create a process where parents of students with disabilities have direct access to BOE members and the process is to be approved by Plaintiff and Plaintiff's Mother.
  - i. Process must include BOE meeting with parents of and students with disabilities directly.
  - ii. When BOE members meet with concerned parents, a resolution plan must be created between BOE and parents of students with disabilities.
  - iii. Resolution template to be created by Defendants and approved by Plaintiff, Plaintiff's Mother, and other parents and students with disabilities in the District (immediately after judgement).
- j. Requiring Defendants to provide students with disabilities and their families with the contact number and information for the (immediately after judgement):
  - i. Colorado Department of Education AND, how to:

1. File a formal complaint with the Colorado Department of Education against an educator, school, district, or board; and
  2. File a complaint against an educator's license, for engaging in unlawful or unethical behavior, through the Colorado Department of Education.
- ii. Office of Civil Rights AND, how to:
    1. File a formal complaint against educator, school, district, or board for a violation of a student's civil rights.
- k. Requiring Defendants to immediately, from the date of judgement, provide relief to Plaintiff.
  - l. Requiring Defendants to participate in annual training on *Effective Communication for Individuals with Disabilities*.
  - m. Requiring Defendants to provide students with disabilities and their families with the contact number and information for the:
    - i. Colorado Department of Education AND, how to:
      1. File a formal complaint with the Colorado Department of Education against an educator, school, district, or board; and
      2. File a complaint against an educator's license, for engaging in unlawful or unethical behavior, through the Colorado Department of Education.
    - ii. Office of Civil Rights AND, how to:
      1. File a formal complaint against educator, school, district, or board for a violation of a student's civil rights.

- n. Requiring Defendants to make a public statement of their violations of Federal law to local news outlets and print media, with plan on how they will prevent violating Federal law moving forward. Plan to be approved by Plaintiff and Plaintiff's Mother. Public announcement must be made within thirty (30) days from judgement.
- o. Termination of Defendants from the District to prevent further harm to Plaintiff or other students with disabilities and their families.
- p. Requiring Defendants to immediately, from the date of judgement, provide relief to Plaintiff.

**J. Statement of Claim: VIOLATION OF DESTRUCTION, ALTERATION, OR  
FALSIFICATION OF RECORDS IN FEDERAL INVESTIGATIONS**

365. Plaintiff reincorporates and re-alleges all other paragraphs as if fully set forth herein.

366. Plaintiff's conditions alleged herein constitute disabilities protected under *The American's with Disabilities Act, Effective Communication for Individuals with Disabilities, Section 504 of Rehabilitation Act of 1973, and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.*

367. Plaintiff was and is qualified to attend PCHS and participate on PCHS's football team.

368. PCHS had knowledge of Plaintiff's disabilities beginning in 2020 and throughout his enrollment at PCHS.

369. PCHS had knowledge of Plaintiff's need for reasonable accommodations, prior to Plaintiff attending the football out-of-state fieldtrip, so the Plaintiff could participate in and benefit from attending the football fieldtrip.

370. Plaintiff was willfully excluded by PCHS staff from participation in and denied the benefits of PCHS's services, programs, and activities.

a. That exclusion, denial of benefits, and discrimination was by reason of Plaintiff's disabilities.

371. PCHS's decision to willfully deny Plaintiff accommodations on or about and between August 25, 2022 and August 27, 2022, during the PCHS football fieldtrip, was a failure to reasonably accommodate Plaintiff's disabilities and needs, which resulted in:

- b. Plaintiff being unsupervised and without chaperon;
- c. Plaintiff being victimized by way of an unlawful sexual crime;
- d. Plaintiff to be subjected to further victimization; and
- e. Plaintiff was unable to benefit from participating in PCHS football program and football fieldtrip activities.

372. PCHS's decision to willfully deny Plaintiff accommodations and services to provide Plaintiff with an aid, benefit, or service that is effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as provided to others, was a failure to reasonably accommodate Plaintiff's disabilities, specifically, on the basis that the Plaintiff is NON-VERBAL.

373. Defendants' decision to willfully allow PCHS to instruct a suspect to destroy evidence with the intent to alter and influence the outcome of the Title IX, Federal



investigation, was a failure to protect the Plaintiff's civil rights and liberties as afforded by Federal laws.

374. Defendants' decision to willfully allow PCHS not to provide accommodations or services so the Plaintiff could effectively communicate what happened to him was an intent to alter and influence the outcome of the Title IX, Federal investigation, and was a failure to protect the Plaintiff's civil rights and liberties as afforded by Federal laws.

375. Defendants' decision to willfully allow the District level investigator to deny Plaintiff with the opportunity to provide a witness statement, by declining to interview Plaintiff on the basis of Plaintiff's disabilities, was an intent to alter and influence the outcome of the Title IX, Federal investigation, and was a failure to protect the Plaintiff's civil rights and liberties as afforded by Federal laws.

376. Defendants' decision to willfully not make or instruct staff to make mandatory reports, to local authorities including law enforcement, according to Federal law, was an intent to alter and influence the outcome of the Federal investigation, Title IX, and was a failure to protect Plaintiff's civil rights and liberties as afforded by Federal laws.

377. Defendants' decision to willfully alter and falsify the Investigative Report that resulted from the Title IX District level investigation (Federal investigation), was an intent to alter and influence the outcome of the Federal investigation, and was a failure to protect Plaintiff's civil rights and liberties as afforded by Federal laws.

378. Defendants' decision to willfully alter and falsify documentation with the intent to alter and influence the outcome of a Federal investigation, Title IX, caused the Plaintiff and Plaintiff's Mother to not be able to prosecute suspects, which resulted in Plaintiff not receiving justice for the unlawful sexual crime committed against him.

379. PCHS's willful violations of Plaintiff's rights and liberties under the *Destruction, Alteration, or Falsification of Records in Federal Investigations* code, have caused him to suffer damages, including, but not limited to, psychological, emotional, physical injury, and reputational damages in addition to economic damages and costs in this action.

**K. REQUEST FOR RELIEF: VIOLATION OF DESTRUCTION, ALTERATION, OR  
FALSIFICATION OF RECORDS IN FEDERAL INVESTIGATIONS**

380. Plaintiff requests that the Court enter judgment in his favor and against Defendant PCHS, District, and Board of Education, by:

381. Awarding the Plaintiff economic damages, including out-of-pocket expenses to be established at trial;

382. Awarding the Plaintiff emotional upset, stress, and anxiety, and hedonic damages in an amount to be established at trial;

383. Awarding the Plaintiff psychological damages in an amount to be established at trial;

384. Awarding the Plaintiff physical injury damages in an amount to be established at trial;

385. Awarding the Plaintiff reputational damages in an amount to be established at trial;

386. Awarding the Plaintiff out-of-pocket expenses, litigation costs, and filing fees in amounts to be established at trial;

387. Awarding the Plaintiff with punitive damages in the maximum amount permitted by law;

388. Awarding the Plaintiff statutory and reasonable filing fees, litigation expenses and costs incurred in this action;
389. Awarding Plaintiff with lifetime access to rehabilitative therapies (e.g. speech, occupational, physical, etc.) to be paid for by the Defendants;
390. Awarding the Plaintiff with lifetime access to behavioral health therapies, providers, and services (e.g. mental health, physical health, medical, inpatient, outpatient, assessment and evaluation, case management, peer support, treatment, entertainment and leisure activities, home health, home care, group activities, sports activities, etc.) to be paid for by the Defendants;
391. Awarding Plaintiff with lifetime access to transportation, to and from appointments, for rehabilitative therapies and behavioral health therapies, providers, and services, to be paid for by the Defendants; and
392. Awarding the Plaintiff any additional and further relief that the Court finds equitable appropriate, and just.
393. Requiring Defendants to make a public statement about the violations of Federal law they committed and how they plan on preventing harm to be caused to students with disabilities and what they are doing to assure students with disabilities civil rights and liberties are not violated.
394. Requiring Defendants to report their violations to CHSAA and comply with corresponding penalties, from CHSAA.
395. Requiring Defendants to report their violations to the Colorado Department of Education and comply with corresponding penalties set forth by the Colorado Department of Education.

396. Requiring Defendants to report their violations to the Office of Civil Rights and comply with corresponding penalties set forth by the Office of Civil Rights.
397. Requiring the Defendants to report their violations to the Department of Justice (“DOJ”) and comply with corresponding penalties set forth by the DOJ.
  - a. Defendants to provide proof of reporting their violations to the DOJ within thirty (30) days of judgment and plan to meet DOJ and remedies and consequences to Plaintiff and Plaintiff’s Mother.
398. Requiring Defendants to pay a fine, to the fullest extent as permitted by law and as determined by the Court.
399. Imprisoning directly involved and mentioned Defendants, to the fullest extent permitted by law and as determined by the Court.
400. Immediate revocation of educational and professional credentials or licenses held by directly involved and mentioned Defendants.
401. Immediate dismissal and removal of Defendants directly involved and mentioned throughout, from Defendants’ jobs.
402. Any immediate action(s) for additional and further relief that the Court finds equitable, appropriate, and just to redress damages caused by Defendants to Plaintiff.
403. Termination of Defendants to prevent further harm to Plaintiff and other students with disabilities and their families.

**L. FIFTH CLAIM FOR RELIEF: VIOLATION OF CHILD ABUSE REPORTING**

404. Plaintiff reincorporates and re-alleges all other paragraphs as if fully set forth herein.

405. Plaintiff's conditions alleged herein constitute disabilities protected under *The American's with Disabilities Act, Effective Communication for Individuals with Disabilities, Section 504 of Rehabilitation Act of 1973, and Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.*

406. Plaintiff was and is qualified to attend PCHS and participate on PCHS's football team.

407. PCHS had knowledge of Plaintiff's disabilities beginning in 2020 and throughout his enrollment at PCHS.

408. PCHS had knowledge of Plaintiff's need for reasonable accommodations, prior to Plaintiff attending the football out-of-state fieldtrip, so the Plaintiff could participate in and benefit from attending the football fieldtrip.

409. Plaintiff was willfully excluded by PCHS staff from participation in and denied the benefits of PCHS's services, programs, and activities.

f. That exclusion, denial of benefits, and discrimination was by reason of Plaintiff's disabilities.

410. PCHS's decision to willfully deny Plaintiff accommodations on or about and between August 25, 2022 and August 27, 2022, during the PCHS football fieldtrip, was a failure to reasonably accommodate Plaintiff's disabilities and needs, which resulted in:

g. Plaintiff being unsupervised and without chaperon;

h. Plaintiff being victimized by way of an unlawful sexual crime;

- i. Plaintiff to be subjected to further victimization; and
- j. Plaintiff was unable to benefit from participating in PCHS football program and football fieldtrip activities.

411. PCHS's decision to willfully deny Plaintiff accommodations and services to provide Plaintiff with an aid, benefit, or service that is effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as provided to others, was a failure to reasonably accommodate Plaintiff's disabilities, specifically, on the basis that the Plaintiff is NON-VERBAL.

412. PCHS staff, Defendants as a whole, are a person who, while engaging in a professional capacity or activity described in subsection (b) of this section ... learns of facts that give reason to *suspect* that a child has suffered an incident of child abuse, shall *as soon as possible* make a report of the suspected child abuse to the agency designated under subsection (d) of this section.

413. PCHS staff, Defendants as a whole, did not immediately make a mandatory child abuse report to DHS once they became aware of the unlawful sexual crime committed against Plaintiff, while in Nevada on the PCHS football team fieldtrip.

414. PCHS staff, Defendants as a whole, did not immediately make a mandatory child abuse report to HPD once they became aware of the unlawful sexual misconduct committed against Plaintiff, while in Nevada on the PCHS football team fieldtrip.

415. PCHS staff's, Defendant's as a whole, failure to immediately make mandatory child abuse reports to DHS and HPD once they became aware of the unlawful sexual misconduct crime against Plaintiff, which was pregame, and caused the Plaintiff and

Plaintiff's Mother to not be able to prosecute suspects, which resulted in Plaintiff not receiving justice for the unlawful sexual misconduct crime committed against him.

416. PCHS's willful violations of Plaintiff's rights and liberties under *Child Abuse Reporting* Federal law, have caused him to suffer damages, including, but not limited to, psychological, emotional, physical injury, and reputational damages in addition to economic damages and costs in this action.

**M. REQUEST FOR RELIEF: Violation of Mandatory Reporting Laws**

417. Plaintiff requests that the Court enter judgment in his favor and against Defendant PCHS, District, and Board of Education, by:

418. Awarding the Plaintiff economic damages, including out-of-pocket expenses to be established at trial;

419. Awarding the Plaintiff emotional upset, stress, and anxiety, and hedonic damages in an amount to be established at trial;

420. Awarding the Plaintiff psychological damages in an amount to be established at trial;

421. Awarding the Plaintiff physical injury damages in an amount to be established at trial;

422. Awarding the Plaintiff reputational damages in an amount to be established at trial;

423. Awarding the Plaintiff out-of-pocket expenses, litigation costs, and filing fees in amounts to be established at trial;

424. Awarding the Plaintiff with punitive damages in the maximum amount permitted by law;

425. Awarding the Plaintiff statutory and reasonable filing fees, litigation expenses and costs incurred in this action;
426. Awarding Plaintiff with lifetime access to rehabilitative therapies (e.g. speech, occupational, physical, etc.) to be paid for by the Defendants;
427. Awarding the Plaintiff with lifetime access to behavioral health therapies, providers, and services (e.g. mental health, physical health, medical, inpatient, outpatient, assessment and evaluation, case management, peer support, treatment, entertainment and leisure activities, home health, home care, group activities, sports activities, etc.) to be paid for by the Defendants;
428. Awarding Plaintiff with lifetime access to transportation, to and from appointments, for rehabilitative therapies and behavioral health therapies, providers, and services, to be paid for by the Defendants; and
429. Awarding the Plaintiff any additional and further relief that the Court finds equitable appropriate, and just.
430. Requiring Defendants to make a public statement about the violations of Federal law they committed and how they plan on preventing harm to be caused to students with disabilities and what they are doing to assure students with disabilities civil rights and liberties are not violated.
431. Requiring Defendants to report their violations to CHSAA and comply with corresponding penalties, from CHSAA.
432. Requiring Defendants to report their violations to the Colorado Department of Education and comply with corresponding penalties set forth by the Colorado Department of Education.



433. Requiring Defendants to report their violations to the Office of Civil Rights and comply with corresponding penalties set forth by the Office of Civil Rights.
434. Requiring the Defendants to report their violations to the Department of Justice (“DOJ”) and comply with corresponding penalties set forth by the DOJ.
435. Requiring Defendants to pay a fine, to the fullest extent as permitted by law and as determined by the Court.
436. Requiring directly involved and mentioned Defendants to be prosecuted and charged for violations, to the fullest extent permitted by law and as determined by the Court.
437. Requiring directly involved and mentioned Defendants to be fined to the fullest extent permitted by law and as determined by this Court.
438. Imprisoning directly involved and mentioned Defendants, to the fullest extent permitted by law and as determined by the Court.
439. Immediate revocation of educational and professional credentials or licenses held by directly involved and mentioned Defendants.
440. Immediate dismissal and removal of Defendants directly involved and mentioned throughout, from Defendants’ jobs.
441. Any immediate action(s) for additional and further relief that the Court finds equitable, appropriate, and just to redress damages caused by Defendants to Plaintiff.
442. Immediate termination, within one-week of judgement, of Defendants from District to prevent further harm to Plaintiff and other students with disabilities.