

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

A.L.S., as Next Friend, Parent, and
Natural Guardian of B.M.L., a Minor

Plaintiff,

CIVIL ACTION FILE NO.

vs.

JEFFERSON SCHOOLS, BRIAN
SULLIVAN, CRAIG HAUGEN, and
DAVE VENSEL

Defendants.

MICHAEL R. DORFMAN (P60955)
NYKANEN DORFMAN, PLLC
Attorneys for Plaintiff
33493 West 14 Mile Rd.
Farmington Hills, MI 48331
mike@nykanendorfman.com
(248) 629-0880

COMPLAINT

Plaintiff, A.L.S., Individually, and as Next Friend, Parent, and Natural Guardian of B.M.L., a Minor (“Plaintiff”), through her attorneys, Nykanen Dorfman, PLLC states as follows for her Verified Complaint against Defendants, Jefferson Schools, Brian Sullivan, Craig Haugen and Dave Vensel:

JURISDICTION AND VENUE

1. This action is brought pursuant to Title IX of the Education Amendments of 1972, 20 U.S.C. §1681; and pursuant to 42 U.S.C. §1983, to vindicate Plaintiff's right to equal protection of the laws and due process through the Fourteenth Amendment to the Constitution of the United States. Jurisdiction is founded upon 28 U.S.C. §1331 and §1343(3). Plaintiff further invokes the pendant or supplemental jurisdiction of this Court to decide claims arising under state law pursuant to 28 U.S.C. §1367.

2. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b) because the events or omissions giving rise to the subject claims occurred in Monroe County, Michigan, which is situated within the district and divisional boundaries of the Southern Division of the Eastern District of Michigan, and because one or more of the Defendants reside within said District and Division.

3. All of the parties herein are subject to the jurisdiction of this Court.

PARTIES

4. Plaintiff, A.L.S., is the parent and natural guardian of B.M.L., a minor child, who brings in her representative capacity as next friend on behalf of said child.

5. Pursuant to F.R.C.P, Plaintiff, her mother, and other students, are identified by their initials in order to protect the privacy of the child, who is presently sixteen (16) years of age. To the extent that Rule 5.2 does not require or authorize redaction of both the minor's name and the name of her parent, Plaintiff hereby moves for a protective order permitting her to proceed anonymously in order to comply with both the letter and spirit of Rule 5.2, as well as protect her daughter's privacy in light of the sensitive subject matter of this Complaint. The identities of Plaintiff and her daughter are well known to the Defendants. Plaintiff anticipates that the Defendants will not oppose the Plaintiff's invocation of Rule 5.2, and that parties will reach agreement on the terms of an appropriate protective order.

6. Defendant, Jefferson Schools (or "School District"), is a local governmental entity in Monroe County, Michigan, organized and existing pursuant to the laws of the State of Michigan, with the capacity to sue and be sued; that is a recipient of federal education funding, that is a Local Education Agency subject to suit in federal court under Title IX, and that is

subject to the jurisdiction of this Court. Said Defendant may be served through its Superintendent, Craig A. Haugen, 2400 North Dixie Hwy., Monroe, Michigan 48162.

7. Defendant, Brian Sullivan (“Sullivan”), is a certified public school teacher employed by Defendant Jefferson Schools at Jefferson High School in Monroe, Michigan¹. He is sued in his individual capacity. Upon information and belief, Sullivan is domiciled in Monroe County, Michigan.

8. Defendant, Dave Vensel (“Vensel”), was at all times relevant hereto the Principal of Jefferson High School. As Principal, Defendant Vensel was charged with the administration of Jefferson High School.

9. Defendant, Craig A. Haugen (“Haugen”), was at all times relevant hereto, the Superintendent of Jefferson Schools. As Superintendent, Haugen is charged with executive oversight and administrative duties for Jefferson Schools. The duties are primarily, but not exclusively, the implementation of School District policies and regulations.

¹ On July 9, 2014, Jefferson High School Principal, Dave Vensel (“Vensel”) issued correspondence to Parents of Jefferson High School Band Members informing them that Sullivan would be taking a leave of absence from Jefferson Schools for the 2014-2015 school year to “complete graduate work at Eastern Michigan University”.

10. At all times relevant hereto, all individual Defendants were acting in their individual and official capacities and under color of law of the State of Michigan.

11. At all times relevant hereto, all individual Defendants had the duty and authority to effectuate the policies and customs of the School District, and to implement and execute all federal, state, and school district regulations and/or policies relevant to the operation of a public school.

12. Jefferson Schools is responsible for all acts and omissions of all School District employees.

FACTUAL ALLEGATIONS

13. Plaintiff incorporates the allegations in paragraphs 1-12 above as if stated fully herein.

14. At all times relevant herein, Defendant Jefferson Schools was a recipient of federal funds subject to the requirements of Title IX.

15. At all times relevant herein, Defendant Sullivan was a certified public school teacher employed by Defendant Jefferson Schools at Jefferson High School in Monroe, Michigan.

16. At all relevant times herein, B.M.L. has resided with her family in Monroe County, Michigan and has been a student in the Jefferson Schools.

17. Between August 2012 and July 2014, B.M.L. attended ninth and tenth grades at Jefferson High School in Monroe County, Michigan and Defendant Sullivan was her music teacher and the leader of the Jefferson High School Marching Band in which B.M.L. was a member.

B.M.L.'s Academic and Extracurricular History

18. Before the incidents giving rise to this Complaint, B.M.L. had a 3.965 grade point average, and was a Member of the National Honor Society.

19. Before the incidents giving rise to this Complaint, B.M.L. was a vibrant, young woman who gave generously of her time and appreciably enjoyed academics and music to a great degree.

20. Additionally, B.M.L. was a member of the Key Club; started, and was the President of the Jefferson High School Anti-Bullying Club; Vice President of her class; worked for Special Olympics; a Member of Youth in Government; a school representative to event in Washington, D.C.; a Member of the Jefferson High School Marching Band; and a clarinet tutor to students at Jefferson Middle School.

21. Outside of school, B.M.L. is just as active, where she is President and an 8-year member of her 4H Club; volunteers at the Immaculate Heart of Mary Center on Sundays; volunteers for Monroe

Hockey Association; and serves as the Youth Advisor to the Monroe County Anti-Bullying Program led by Judge Frank Arnold at Monroe County Probate Court.

Teacher Brian Sullivan's Cult of Personality

22. At all times relevant herein, Brian Sullivan led all music programs at Jefferson High School, (including Jazz Band, Symphonic Band, and Wind Ensemble) and was the Director of the Jefferson High School Marching Band.

23. Sullivan is male, approximately late 20's to early 30's, with a youngish appearance and a hairstyle similar to the teenagers he was lording over.

24. Sullivan used his physical appearance and authority as a teacher, to sexually harass, intimidate, manipulate and prey upon the female students in his classes and school bands.

25. Sullivan wanted to be seen as a peer to the female students and enjoyed when students called him "Sully" rather than Mr. Sullivan.

26. Female students were often alone with Sullivan one-on-one in his office, which is a windowed-room connected to the band room.

27. The ratio of office visits by female students compared to male students was large.

28. B.M.L., on multiple occasions, walked into the band room where Sullivan would be in his windowed office and would be sitting closely to a female student.

29. Additionally, Sullivan has a violent temper, which he exhibited to the children in his classes on multiple occasions.

30. B.M.L. witnessed Sullivan undertake the following inappropriate violent acts in anger in front of classes: Throwing his baton hard against the ground; punching a chalkboard with his fist; kicking a chair into a wall; throwing music stands onto the floor; kicking a stool across the room; and throwing a piece of chalk at a student hitting him in the eye.

31. Sullivan would also scream and yell at certain students who were singled out, with said students reduced to tears.

32. Sullivan devoted the majority of his time flirting with female students and bragging in detail to the high school students about his social life and dates.

33. Sullivan informed his class on one occasion about a date, that “he tried to be flirty” on a date, “had my hand on her waist” and “I could tell we were about to kiss.”

34. Sullivan would incessantly describe to the students during class the physical characteristics of the “women” he dated and described typically as shorter than him when choosing women to date.

35. Sullivan would leer at the female students, looking them up and down lasciviously.

36. Sullivan also inappropriately complimented female students on their appearance, their shoes and their hairstyles.

37. Sullivan also crossed boundaries when he would hug female students all the time and text back and forth with students regarding non-school related matters.

38. Girls aged 14-17 were being requested to inappropriately touch their teacher.

39. Sullivan had female students run their fingers through his hair during class faux complaining that his hair was “not sitting right.”

40. Sullivan would constantly ask certain female students to help “fix his hair” during class. Sullivan would bend his head down to the girl who was chosen to “play” with his hair that day.

41. One girl with curled hair in the class also enjoyed having Sullivan play with her hair during class under the guise of her “curls were stuck together.”

42. Former female students of Sullivan, who were 18 and 19 years old and had graduated the prior June, would pick Sullivan up in their cars in front of the school.

43. Sullivan flaunted that he was in some sort of relationship with girls who had been his students the prior spring.

44. Everyone was aware of this, including parents, students, teachers, and administrators.

45. During B.M.L.'s sophomore year (September 2013-June 2014), Sullivan started paying only girls in his classes \$1 bills from his wallet when they would play their scales correctly. Boys who played their scales correctly received no such attention in class.

46. In February of 2014, Sullivan arbitrarily stated to the class during Wind Ensemble, "Whoever can guess what my football number was in high school gets five dollars."

47. A female student named J.F. guessed the number correctly and she was paid five dollars by Sullivan after blurting out the answer.

48. Her classmates asked J.F. how she would know what Sullivan's high school football number was and she responded: "because I spend so much time in his office."

49. Sullivan was sweet and flirty to the female students who “played ball,” but to academically conscious, self-assured female students like B.M.L., Sullivan was vindictive, mentally abusive, and degrading.

B.M.L.’s History with Sullivan

50. B.M.L. began at Jefferson High School as a freshman in September of 2012.

51. During her freshmen year, B.M.L. was in Sullivan’s Symphonic Band class and a Member of the Jefferson High School Marching band as a clarinetist.

52. In September of 2012, B.M.L. was diagnosed with a contusion fracture in her spine, which led to bursitis, and many hospital visits.

53. The condition was so painful that at times B.M.L. could barely walk.

54. Because of her serious medical condition, Jefferson High School put a 504 Plan² in place to excuse her from classes owing to her inability to walk and her steady pain.

² The "504" in "504 plan" refers to Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, which specifies that no one with a disability can be excluded from participating in federally funded programs or activities, including elementary, secondary or postsecondary schooling. A 504 plan spells out the modifications and accommodations that will be needed for these students to have an opportunity perform at the same level as their peers.

55. Sullivan constantly gave B.M.L. a hard time about her injury, despite having a 504 in place that excused her from classes, and in violation of federal law.

56. Despite the inability to walk at times because of horrible spine pain, B.M.L. was afraid to miss marching band practice due to the fact that Sullivan informed the marching band that if they missed a practice for any reason, their grades would be lowered, even if the absence was excused.

57. As a way of controlling and intimidating the members of the marching band, Sullivan would make certain members run as a punishment.

58. Sullivan would make B.M.L. attempt to run, embarrassing her in front of the entire marching band, even though he knew she had serious back issues and was only at practice for fear of a low grade.

59. B.M.L. also was compelled to show up at a Friday football game to perform at the marching band's halftime show, despite barely being able to walk, because Sullivan would have lowered B.M.L.'s grade had she not been there.

60. B.M.L. was forced to take a heavy narcotic to be able to march with the band that evening.

61. B.M.L. was made to choose between taking narcotic pain medication to participate, or have her grade lowered by Sullivan if she didn't attend the game, in violation of her 504 Plan and federal law.

62. Throughout B.M.L.'s freshman year, Sullivan continued to give her trouble regarding her back and refused to adhere to the terms of the 504 Plan.

63. As part of the grade in the Symphonic Band class, students were tested by Sullivan on their scales weekly.

64. If B.M.L. was out for the week due to her injury, Sullivan would give B.M.L. a zero as her grade, despite the fact that B.M.L. was out with a documented health issue.

65. This caused B.M.L. great amounts of stress.

66. Sullivan only let B.M.L. make up the scale tests after A.L.S. contacted the Assistant Principal, who informed Sullivan that B.M.L., under the law, was allowed to make up the tests and should not be failed because of a serious medical condition beyond her control.

67. This further enraged Sullivan, who continued to make snide and inappropriate remarks to B.M.L. privately and in front of her classmates.

68. On one occasion, The Jefferson High School Marching Band was attending an event at Eastern Michigan University ("Eastern") where

they would have to perform and march, in addition to other high school marching bands.

69. Before the event, B.M.L. had a flare up of her bursitis and she felt compelled to attend because Sullivan informed the class that if anyone did not attend, their grade would be reduced.

70. While the marching band was practicing on the field, Sullivan could tell that B.M.L. was in pain.

71. Rather than excuse B.M.L. from the practice, Sullivan came up to her giggling and told B.M.L. to take a pain pill. When B.M.L. refused, Sullivan kept laughing at her, said something rude under his breath, and walked away.

B.M.L.'s Sophomore Year and the Incident

72. At the beginning of B.M.L.'s sophomore year, she noticed that Sullivan had amped up the sexual innuendo during class and was meeting more of her female classmates alone in his office.

73. B.M.L. also began to notice that the female students "who played ball" had things easier in class, and these girls began to build a cult of personality around Sullivan, loving the individualized attention they were given.

74. Sullivan also continued his “just one of the guys” persona amongst some of the male students who bought into it.

75. On March 24, 2014, B.M.L. was in 4th hour band class called Wind Ensemble with Sullivan in the front of the classroom speaking to the class.

76. With approximately 20 minutes left of class that day, Sullivan began taking questions about the Disney World trip that band members were taking in April to play at the Magic Kingdom.

77. While Sullivan was at the podium talking about the Disney World trip, a female flute player who sits in the first row, M.R., had her legs crossed at the ankles.

78. According to the students, her legs were crossed in a polite fashion while the students and Sullivan discussed the trip.

79. Sullivan allegedly has a rule that while playing their instruments students were not to cross their legs.

80. According to the students, M.R. was not attempting to flaunt any rules; she was merely resting her legs at the ankles, as people are accustomed to do.

81. M.R. is a shy and reserved student and believed she could cross her legs at the ankles while the students and teacher discussed the trip to Florida, as no instruments were being used or played.

82. Sullivan suddenly stopped the discussion, and in front of the entire class, ordered M.R. to uncross her legs, and she immediately uncrossed them.

83. Sullivan then proceeded to walk into his office and get a roll of duct tape.

84. At first everyone started giggling, believing that he was just going to set the duct tape on the podium as a joke.

85. Sullivan had used props as jokes before such as a scissors, once threatening to cut off a student's pinkie finger.

86. However, Sullivan brought out a roll of duct tape from his office, and knelt down on the floor in front of, and facing M.R.

87. Sullivan placed both of his hands on M.R.'s inner thighs and plied M.R.'s legs apart as she sat, so her left ankle would be touching the left front leg of the chair and her right ankle would be touching the front right leg of the chair.

88. Sullivan then unrolled a long piece of duct tape, placed his hand on her thigh to steady himself, and keep M.R.'s leg still, and began to tape M.R.'s first leg to the leg of the chair.

89. It was at this point that the class realized it wasn't a veiled threat and that Sullivan was not joking.

90. Sullivan started applying the duct tape at M.R.'s ankle, and began to work his way up to her knee and then back down.

91. Sullivan repeated the duct taping process a few times until M.R.'s leg was tightly bound to leg of the chair.

92. A.P., a student who is a trumpet player and sat in the third row, took out his phone and was about to record Sullivan duct taping M.R. to the chair.

93. After Sullivan finished duct taping the first leg to the chair, he warned the class: "I don't want anyone to record this or tell anyone because I'll get in trouble."

94. A.P. put his phone down and did not record this outrageous event, and Sullivan continued with the same process to the other leg.

95. The whole time M.R. had her legs spread and repeatedly duct taped to her chair, she did not struggle or fight against Sullivan.

96. M.R. simply sat there and took the abuse.

97. M.R. was purposely selected by Sullivan for this act of sexual harassment because she was meek, always very reserved and quiet, preferring reading to socializing.

98. M.R., like B.M.L, was never a troublemaker in or out of class. M.R. was a 4.0 student, just like B.M.L., and was not part of the Sullivan cult of personality and didn't bat her eyes at Sullivan.

99. B.M.L. was sickened by the sexual harassment of M.R. exhibited in front of the entire class of teenagers and was completely enraged.

100. While Sullivan was standing up after he finished taping M.R.'s legs, B.M.L. said to the students sitting around her in the class: "what gives him the right to abuse someone in the middle of class?"

101. Sullivan heard B.M.L. make the comment, looked at her funny, but didn't say anything.

102. Sullivan went back to the podium in front of the class and continued talking about the Florida trip as if nothing had happened.

103. While Sullivan pretended nothing had occurred, it became evident to everyone in the class that M.R. was crying.

104. No one in the classroom was laughing.

105. Sullivan left M.R. taped to her chair for about 10 minutes while he non-chalantly discussed Florida.

106. With approximately 5 minutes left in the 4th hour class period, Sullivan told the class to pack up their instruments.

107. Sullivan never attempted to help M.R. out of the duct tape, humiliating her further by leaving her duct taped and immobile in the front of the room.

108. C.K., a female student, decided what was happening to M.R. was wrong and bravely decided to help M.R. out of the duct tape.

109. Sullivan walked over to where C.K. was helping free M.R. from the duct tape with a smug smile on his face, while M.R. was still crying. He then when into his office.

110. B.M.L. went straight to the school office and told the secretaries that she needed to file an incident report against Sullivan.

111. B.M.L. had had enough of Sullivan's sexual harassment and inappropriate behaviors.

112. B.M.L. was given a blank incident report and told to go to her fifth hour Geometry class, and then bring the form back when it had been completed.

113. B.M.L. went to her fifth hour class and immediately began filling out the incident report. There were classmates from band, who were also in B.M.L.'s fifth hour class, and they along with non-band members watched intently as she filled out the incident report.

114. B.M.L.'s fifth hour teacher let her leave class a couple of minutes early so she could go to the office and personally hand the administration the report. No administrators read the incident report while B.M.L. was in the office, and she went to her sixth hour class, which was Advanced English.

115. During sixth hour, M.R., who was also in Advanced English, was summoned to the office, and came back just before the bell rang and didn't say anything to anyone.

116. At sometime either right before 7th hour, or the end of the day, the Assistant Principal found B.M.L. in the hallway and informed her that the administration was taking care of the issue. However, B.M.L. was not informed what action the administration was going to take.

The Aftermath of Doing the Right Thing

117. The next day after the incident, March 25, 2014, B.M.L. attended school and her classes as usual. Rumors began circulating that

Sullivan had been suspended, and there was a substitute teacher for band that day.

118. The substitute did not inform the band class about Sullivan's status, but there was a concert the next day so the substitute was trying to get the class ready for the concert.

119. On March 26, 2014, two days after the duct taping incident, B.M.L. was in her first hour Spanish class, when students in the class began glaring at B.M.L. and saying things aloud like: "she's the one that reported him"; "I can't believe she did that to him"; "it wasn't even a big deal." Vulgar words were uttered under their breath at B.M.L. by some of the students.

120. These types of accusations occurred more as the day progressed as vulgar comments were uttered at B.M.L. in the hallway by other students.

121. The administration did not inform the students regarding Sullivan's status so rumors began circulating in a rampant fashion.

122. Despite the fact that the other classmates in the Wind Ensemble class watched in horror at what Sullivan did to M.R., Sullivan was still the "cool" teacher, the "hot" teacher, and the band students decided they were going to defend him.

123. After a trying day of being treated like a traitor, being ignored in part, and ridiculed in part, B.M.L. arrived home and went on to FaceBook.

124. B.M.L. was shocked to see how many people were commenting upon the duct tape incident and how B.M.L. was being framed as the villain in all of this for reporting Sullivan to the administration.

125. A female student of Sullivan's posted on FaceBook: "[a]lso you don't know what it's like to have a relationship like we do with him."

126. Band students were starting FaceBook pages to support Sullivan and continuing to write derogatory and harassing statements about B.M.L.

127. B.M.L. began to worry as the hatred for her began to get out of hand in the school and on FaceBook.

128. No one was doing anything about it and the band students became increasingly uglier in their comments and treatment of B.M.L.

129. A senior student named K.L. wrote a post on FaceBook where she threatened to beat B.M.L. up in the parking lot after school for "telling on Sully." (The post has since been removed). These were viable threats as K.L. has a reputation of being a "scrapper" and starting fights.

130. That night, B.M.L.'s mother, A.S.L informed school administrators by e-mail of the threat of physical violence.

131. March 27, 2014, was also the day of the concert and B.M.L. received glares and the cold shoulder when she arrived at Monroe County Community College for the concert. B.M.L. was scared to even go to the concert because she was afraid someone would make a scene on stage and out her for “telling on Sully.”

132. On March 28, 2014, there were still posts on FaceBook and also one on Instagram. One student, A.P. named B.M.L. in a post and complained that B.M.L. wanted to get Sullivan fired for sexual harassment.

133. A.S.L. also informed school administrators that a girl had posted a photo of a cross printed on her arm and mentioning B.M.L. by name.

134. B.M.L. began to be afraid of walking into school by herself. She had been threatened with physical violence and was taunted with lewd, vulgar and angry comments wherever she went in the school.

135. A male friend of B.M.L.’s would arrive at school early and walk B.M.L. into the building and to her classes, acting like a quasi-bodyguard.

136. On March 28, 2014, in Wind Ensemble, instead of Mr. Vincent, the middle school music teacher who had been subbing for Sullivan, the class had a new substitute teacher named Mr. Kuderik. (“Kuderik”)

137. Students in band began making snide comments along with Kuderik. Students A.P., C.B. and K.B., began calling B.M.L. the “snitch” and using other inappropriate terms to describe a female.

138. Students R.C. and T.C. were making comments along the line of “If you aren’t with us, you’re against us.” They were attempting to rally the class against B.M.L. while the substitute Kuderik watched in amusement.

139. Kuderik then began talking about how he “didn’t agree with the administration suspending a teacher for his teaching tactics, but that wasn’t up to him.” He also made some disparaging comments about Assistant Principal Mrs. Kreps.

140. Kuderik, an adult, allowed the students to believe their actions and comments towards B.M.L. were permissible, and they ramped up their behaviors.

141. Fortunately, the next day, B.M.L. left for a school sponsored, weekend trip to Washington D.C. with a small group of students selected for high academic performance.

142. B.M.L. was excited to escape what had become a torturous environment at school.

143. It was in Washington D.C. that B.M.L. learned the story had made the Monroe Evening News and knew everyone in the County knew about the story.

144. On March 31, 2014, when B.M.L. arrived at her house from the airport, there was a Fox 2 News truck waiting for her. B.M.L. learned that A.P. gave her name to Fox 2. B.M.L. immediately ran into her house and locked the door.

145. Fox 2 News chose to broadcast B.M.L.'s nightmare and give the issue more exposure.

146. On April 1, 2014, A.S.L. wrote a lengthy e-mail to Vensel requesting that B.M.L. be removed from Sullivan's classes immediately and informing him that: "*due to the negative response of the public and the harassment [B.M.L.] has been subjected to during band class she is no longer being awarded a safe environment to learn.*"

147. A.S.L. went on to state in the e-mail: "I do not feel it is in [B.M.L.'s] emotional or physical best interest to be near [Sullivan]."

148. In addition to the numerous e-mails sent to administrators, A.S.L. was often relaying to administrators by telephone incidents of harassment and the other problems at school that B.M.L. faced.

149. On April 2, 2014, B.M.L. and her family learned that Sullivan was now back teaching all of his classes. His suspension lasted only one week.

150. Because of Sullivan's, violent tendencies and past history of vindictive behavior towards B.M.L., B.M.L.'s family scheduled a meeting with the principal and assistant principal.

151. During that meeting, Principal Vensel and Assistant Principal Kreps finally acquiesced to the family's request that B.M.L. be removed from the entire band program immediately. It was agreed that B.M.L.'s grade would stay the same as it was (an A) and Sullivan was not allowed to alter it in any fashion.

152. The administration promised B.M.L. and her family that Sullivan was not allowed to alter or access B.M.L.'s grade and was to have no contact with her at all. During Wind Ensemble, B.M.L. was to sit in a conference room in the school office for the entire hour, rather than attend the class.

153. B.M.L. could no longer be in the marching band or take formal music instruction at school because Sullivan was the only instructor. It was that night that B.M.L. began having trouble sleeping. Her decision to do the right thing was negatively impacting her and the things she loved were

being taken from her. B.M.L. would wake up throughout the night thinking that someone was trying to break in to hurt her and because she was having bad dreams about the incident. To this day, she still has trouble sleeping through the night.

154. On April 3, 2014, B.M.L. stopped going to her assigned lunch hour. B.M.L.'s assigned lunch period was full of former Wind Ensemble classmates and she was forced to sit in the office to eat her lunch in solitude rather than sit in the cafeteria and be subjected to negative comments and slurs. After a few weeks of eating lunch alone, B.M.L. became very lonely, and it was really depressing for her to eat alone. B.M.L. also began walking the longer way to her classes and avoided walking anywhere near the band room at all costs.

155. On April 9, 2014, the band was supposed to go to Florida. B.M.L. could not go because Sullivan would be on the trip and one of B.M.L.'s assigned roommates was one of the lead tormentors. The band was supposed to have left during second hour, and B.M.L. was happy because she didn't want to run into any of them because the harassment still hadn't stopped and she didn't want any last minute comments before they went to Disney for the week.

156. Unfortunately, when B.M.L. arrived in the office for lunch, Sullivan and a few people from band were there.

157. B.M.L. started having trouble breathing. She walked in quickly and went to her room in the office trying to go unnoticed.

158. Sullivan then walked by her room, waved to her and then opened the door to her room and blocked her exit. He was acting strangely and trying to make awkward small talk with B.M.L.

159. Sullivan was to have no contact with B.M.L., yet he ignored this edict and tried to intimidate B.M.L. while the two of them were alone and with Sullivan blocking the exit.

160. B.M.L. was partially relieved the week of April 9-15, 2014, because the band was in Florida and the harassment stopped. Yet, while B.M.L. was unable to go to Florida, Sullivan was rewarded with the trip and the classmates who continuously harassed B.M.L. were allowed to go.

161. Florida would have been a good place for Sullivan and Vensel speak with the band and put a stop to the harassment of B.M.L. once and for all. Yet, they did not say anything to the students giving them their tacit approval to keep on harassing B.M.L.

162. On April 17, 2014, the rumors started back up again and the name-calling got worse. It was as if the students were re-energized in Florida to continue their verbal assaults on B.M.L.

163. B.M.L. went home extremely upset and told her mother the taunts and threats had been elevated and B.M.L.'s mother e-mailed Vensel requesting that he please intervene.

164. April 28th, April 30th, May 6th, May 8th, May 13th, May 16th, May 20th, May 22nd, May 27th, and June 2nd 2014, are believed to be the dates that Sullivan purposefully came into B.M.L.'s room in the office to stare at her leeringly and try to make her uncomfortable. Sullivan was not to have contact with her, yet would come in and stare at B.M.L. and making uncomfortable comments.

165. The room in the office that B.M.L. was in was right across from the men's staff bathroom. (There was another men's staff bathroom, but Sullivan purposely chose the one across from B.M.L.'s room.) The room in the school office had huge open windows and no curtains. A few of these times, if B.M.L. saw the bathroom door was closed because someone was in there, she would leave the light in her room off and hide behind the door and watch through the crack in the door until whoever was in there left. All

the times B.M.L. did this, it was always Sullivan that was in the bathroom and he would purposely look in her room before he left.

166. B.M.L. hid because she was afraid that so many previous times, he would open that door and block her exit and try to talk to her, but B.M.L. would ignore him every time. B.M.L. was nervous and afraid whenever he would come into the room because she was afraid that Sullivan would threaten her because there was no one else around and he easily could've gotten away with it.

167. Sullivan would also bump up against B.M.L. in the hallway and then lasciviously smile when B.M.L. would look up to see whom it was.

168. B.M.L. did not report these issues to the administration because Vensel never acted on her complaints and B.M.L. believed it would put a bigger target on her back to be harassed because word always managed to get out somehow, and B.M.L. constantly worried about her grade point average.

169. Vensel and Haugen made it clear that they were not going to assist B.M.L. with the ongoing harassment, and as a high school girl; she was too scared to act.

170. The administration made it evident that they did not want to be bothered by B.M.L. or her family, and that the sexual harassment claims and the bullying claims were a mere nuisance.

Finals and Physical Problems Begin

171. Vensel not only looked the other way at the harassment that was on-going, but contributed to it as well with some of his decisions.

172. On April 12, 2014, Vensel informed B.M.L. that for her final exam in Wind Ensemble, she was to pick from a list of composers and write a biography analyzing their works.

173. Incredulously, Vensel informed B.M.L. that Sullivan would be grading her final exam.

174. Vensel saw nothing wrong with having Sullivan grade a subjective writing assignment of B.M.L. for her final grade. It was as if Vensel was either setting up B.M.L. to fail, or he had no understanding of what he was doing.

175. On April 29, 2014, A.S.L. again wrote to Vensel regarding Sullivan's continued involvement with B.M.L. despite the administration's earlier promises to ensure there would be no contact between Sullivan and B.M.L. and that her grade would freeze at an "A", which was the grade she had when she left the class.

176. However, Sullivan gave B.M.L. a “B-“ as her 9-week grade, which directly conflicted with what was agreed upon in the earlier meeting between B.M.L., her family, and the administration.

177. Sullivan purposely gave this lower grade to B.M.L. to cause her distress and take his revenge upon her.

178. A.S.L. stated in the e-mail: *“This was done on purpose and was calculated on his part as a response to [B.M.L.] defending [M.R.]”* A.S.L. further stated: *“[B.M.L.] is being subjected to continued emotional distress at the hands of a teacher and has become a continued target for standing up for a child that was bullied.”*

179. A.S.L. stated lastly: *“I am extremely disappointed that my daughter is yet again being subjected to unwarranted stress and emotional abuse because [Sullivan] couldn’t keep his hands off of a child.”*

180. Vensel did nothing to stop the continued harassment of B.M.L. by Sullivan despite having frequent and ample notice of the recurring acts and behaviors of Sullivan.

181. On May 19, 2014, B.M.L. began hiding in her room. B.M.L. believed that if she stayed in her room in her own little world, that it would all magically go away, but of course this didn’t happen. B.M.L. didn’t want to socialize with anyone and started hanging out less and less with two of

her best friends from other schools. B.M.L. was afraid to go outside or go to the movies or the mall. She just wanted to stay in her room away from everyone and everything.

182. On May 27, 2014, A.S.L. e-mailed Vensel again because B.M.L.'s grade for Wind Ensemble had still not been corrected causing B.M.L. great distress.

183. Sullivan was still attempting to thwart B.M.L.'s grades by placing zeroes in certain columns, ultimately affecting her cumulative grade.

184. On May 29, 2014, B.M.L.'s grandparents met with Vensel again to plead with him to do something about the constant harassment and to fix B.M.L.'s grades.

185. Also on May 29, 2014, A.S.L. issued an e-mail to Superintendent Haugen.

186. In that e-mail, A.S.L. informed Haugen of what Sullivan had been doing and Vensel's inaction.

187. A.S.L. informed Haugen that Sullivan was doing exactly what she feared, and what she had told Haugen what would happen, back when they met a few months prior.

188. On May 31, 2014, B.M.L. went to her doctor as her thumb had turned numb and the doctor informed her the numb thumb was caused by stress.

189. On June 4, 2014, B.M.L. was required to attend the seniors' graduation ceremony as a member of the student council. B.M.L. had to be there a little early because some student council members would be handing out programs.

190. B.M.L. had stopped going to all extra-curricular activities or if she had been going, she didn't participate nearly as much as she always did.

191. All of the band members got there early too because they play the music for the ceremony, so B.M.L. made sure there were no band people by the door and B.M.L. went in the building. She didn't want any confrontation before graduation.

192. As B.M.L. was walking to the library (where she was supposed to meet the other student council members), Sullivan walked by her looked her up and down and said, "Brianna looking very nice in your dress."

193. Sullivan would not stop sexually harassing B.M.L. and was rather flippant about it.

194. This was B.M.L.'s breaking point. She could not attend school for the rest of the year, pursuant to her doctor's instruction.

195. B.M.L.'s mother took her to a doctor and she was placed on Zoloft for anxiety and stress.

196. B.M.L. had never suffered with these ailments before and had never treated with a mental health professional until these incidents occurred.

197. B.M.L. was completely and utterly depressed. She loved school, and one of the last things she liked doing, was being taken away from her all because Sullivan couldn't keep his hands off of a student.

198. B.M.L. has been forced to dis-enroll from Jefferson Public Schools and now has to attend classes elsewhere.

199. As of the filing of this Complaint, B.M.L.'s grades have still not been fixed.

COUNT I
TITLE IX, 20 U.S.C. § 1681, B.M.L. vs. JEFFERSON SCHOOLS
(Actions of Defendant Sullivan)

200. Plaintiff incorporates the allegations in paragraphs 1-199 above as if stated fully herein.

201. Title IX places on public school systems the duty not to discriminate against students on the basis of sex and the duty to protect students from intentional discrimination, including sexual harassment or abuse, by teachers.

202. Jefferson School District created and/or permitted to continue an environment rife with sexual harassment and hostile educational environment in violation of Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 (a) because: (a) B.M.L. was a member of a protected class; (b) she was subjected to sexual harassment in the form of comments and behaviors; (c) the harassment was based on her sex; (d) the sexual harassment unreasonably interfered with her school performance and created an intimidating, hostile, and offensive educational environment that severely affected her psychological well-being; (e) school district officials Haugen, Vensel, and Kreps, who had authority to institute corrective measures on behalf of the School District, had actual knowledge of Sullivan's conduct prior to the incident-in-question, but were deliberately indifferent thereto.

203. Due to the School District's failure to act, investigate, or intervene to stop, B.M.L. was subject to sexual harassment in the form of comments and behaviors from Sullivan.

204. B.M.L. has suffered severe and permanent psychological damage, physical harm and emotional distress as a direct and proximate result of the School District's violations of her rights under Title IX.

WHEREFORE, B.M.L. demands that judgment be entered in her favor and against the School District for compensatory damages, emotional distress damages, interest, costs, attorneys' fees as provided by law, and any other equitable and or injunctive relief that the Court deems to be appropriate.

COUNT II
TITLE IX, 20 U.S.C. § 1681, B.M.L. vs. JEFFERSON SCHOOLS
(Actions of Jefferson High Students)

205. Plaintiff incorporates the allegations in paragraphs 1-204 above as if stated fully herein.

206. The on-going and continuous sexual harassment of B.M.L. created a hostile, offensive and intimidating school environment for the minor.

207. The harassment, in the form of comments and physical assault, were severe, pervasive and outrageous.

208. The conduct of the students, mostly done on school property while the administration was responsible for the welfare of B.M.L., was repeatedly reported to the Defendants.

209. Jefferson Schools and the administrators, including, but not limited to the named individual Defendants, displayed a conscious indifference to the known abuse and harassment that B.M.L. was suffering.

210. B.M.L. has suffered severe and permanent psychological damage, physical harm and emotional distress as a direct and proximate result of the School District's violations of her rights under Title IX.

WHEREFORE, B.M.L. demands that judgment be entered in her favor and against the School District for compensatory damages, emotional distress damages, interest, costs, attorneys' fees as provided by law, and any other equitable and or injunctive relief that the Court deems to be appropriate.

COUNT III
TITLE IX, 20 U.S.C. § 1681, B.M.L. vs. JEFFERSON SCHOOLS
(Retaliation)

211. Plaintiff incorporates the allegations in paragraphs 1-210 above as if stated fully herein.

212. Jefferson Schools and the individual Defendants retaliated against B.M.L. after she reported the duct tape incident on March 24, 2014; such retaliation included, but was not limited to, affecting B.M.L.'s grades and designing tests and testing conditions that caused B.M.L. stress.

213. As a direct and proximate result, B.M.L. suffered serious emotional distress, and was denied equal and fair access to the educational programs of the District. She will continue to suffer further injuries and losses in the future, including, but not limited to impairment of educational opportunities.

WHEREFORE, B.M.L. demands that judgment be entered in her favor and against the School District for compensatory damages, emotional distress damages, interest, costs, attorneys' fees as provided by law, and any other equitable and or injunctive relief that the Court deems to be appropriate.

COUNT IV
CONSTITUTIONAL VIOLATION: EQUAL PROTECTION AND DUE
PROCESS AGAINST ALL DEFENDANTS

214. Plaintiff incorporates the allegations in paragraphs 1-213 above as if stated fully herein.

215. This claim is brought pursuant to 42 U.S.C. §1983 to vindicate rights guaranteed to B.M.L. under the First, Fifth, and Fourteenth Amendments to the Constitution of the United States.

216. B.M.L. enjoyed a constitutional right to equal protection of the laws and a right to bodily integrity and liberty under the Constitution of the United States.

217. Defendants School District, Haugen, and Vensel acting under color of law, violated B.M.L.'s right to equal protection and denied her due process by knowingly facilitating the sexual harassment by Sullivan, a teacher under their supervision; by their knowing failure to enforce the School District's rules and policies regarding sexual harassment; by their knowing failure to train and instruct Sullivan regarding sexual harassment; by their knowing failure to train and instruct the other teachers and staff who were aware of Sullivan's conduct to act to end the hostile environment; and by their conscious indifference to the vulnerability of minor B.M.L. to continued harassment.

218. Defendants failed to act on or investigate the prior constitutional violations caused by Sullivan's pervasive actions allowing a continuous, widespread and persistent pattern of sexual harassment to continue and fester at Jefferson High School.

219. Defendants were aware of Sullivan's inappropriate conduct both before and after the duct tape incident, yet their deliberate indifference

to Sullivan's behaviors and actions allowed Sullivan to continue to sexually harass B.M.L. and other female students.

220. Defendants, in essence, gave Sullivan tacit authorization to continue violating B.M.L.'s constitutional rights.

221. Jefferson Schools has the unconstitutional customs or policies of: (a) Failing to investigate evidence of School District employees' tortious misconduct against students; (b) failing to adequately supervise and train School District employees with regard to protecting students from violations of their rights; (c) failing to effectuate adequate policies and procedures in ensuring protection against the sexual harassment of students by teachers and other students; (d) failing to adequately follow policies and procedures that would protect, safeguard, or remedy incidents of sexual harassment of students by employees and other students; and (e) manifesting indifference towards incidence of sexual harassment of students by employees and other students.

222. As a direct and proximate result, B.M.L. suffered serious emotional distress and was denied equal and fair access to the educational programs of the District. She will continue to suffer further injuries and losses in the future, including, but not limited to impairment of educational opportunities.

WHEREFORE, B.M.L. demands that judgment be entered in her favor and against the School District for compensatory damages, emotional distress damages, interest, costs, attorneys' fees as provided by law, and any other equitable and or injunctive relief that the Court deems to be appropriate.

**COUNT V
GROSS NEGLIGENCE
(All Defendants)**

223. Plaintiff incorporates the allegations in paragraphs 1-222 above as if stated fully herein.

224. At all relevant times herein, Defendants owed a duty of ordinary care to B.M.L. requiring that they exercise that degree of care that a similarly situated person would exercise under same or similar circumstances.

225. Defendants, upon having notice that B.M.L. was being sexually harassed, owed B.M.L. a duty to prevent such conduct from recurring in and on school grounds.

226. The aforementioned misconduct of Sullivan and the other Defendants was willful, wanton, reckless and demonstrated a substantial lack of concern for the resulting injuries to B.M.L.

227. Because the actions of Sullivan and the other Defendants amounted to gross negligence, the defense of governmental immunity is not applicable under Michigan law.

228. As a direct and proximate result of said misconduct, B.M.L. suffered significant psychological harm, was forced to endure extreme mental and emotional distress, and was subjected to a hostile school environment, all of which continues to this day and is expected to continue into the future.

WHEREFORE, B.M.L. demands that judgment be entered in her favor and against the School District for compensatory damages, emotional distress damages, interest, costs, attorneys' fees as provided by law, and any other equitable and or injunctive relief that the Court deems to be appropriate.

COUNT VI
VIOLATION OF THE ELLIOT-LARSEN CIVIL RIGHTS ACT
(Actions of Sullivan and Students)

229. Plaintiff incorporates the allegations in paragraphs 1-228 above as if stated fully herein.

230. Defendant Jefferson Schools is a place of public accommodation, a public service, and an educational institution as defined in Michigan's Elliott-Larsen Civil Rights Act, MCL §§37.2301, .2401 (the "Act").

231. Defendant Sullivan is a person, as that term is defined in the Act, and was an agent of Defendant Jefferson Schools at all relevant times therein.

232. Defendants violated the Act and deprived Minor B.M.L. of her civil rights by, and among other things, (a) subjecting B.M.L., because of her sex, to conduct and communication of a physical and sexual nature, which had the purpose and effect of denying B.M.L. the full benefit of the educational program of Jefferson Schools and full and equal access to the use and privileges of public accommodations, public service, and educational opportunity and (b) allowing and failing to stop retaliation and harassment of B.M.L. by students under the control of Defendants, which acts were in retaliation for B.M.L. having asserted her right, not to be subjected to this kind of activity.

233. As a direct and proximate result of said misconduct, B.M.L. suffered significant psychological harm, was forced to endure extreme mental and emotional distress, and was subjected to a hostile school

environment, all of which continues to this day and is expected to continue into the future.

WHEREFORE, B.M.L. demands that judgment be entered in her favor and against the School District for compensatory damages, emotional distress damages, interest, costs, attorneys' fees as provided by law, and any other equitable and or injunctive relief that the Court deems to be appropriate.

DAMAGES AND EQUITABLE RELIEF

1. Plaintiff incorporates the allegations in paragraphs 1-228 above as if stated fully herein.

2. As a direct and proximate consequence of the aforementioned conduct of the Defendants, minor B.M.L. has suffered significant psychological and physical harm that is expected to continue into the future.

3. According to the National Women's Law Center: "[s]ex-based harassment can be very damaging to the lives of women and girls, both in its emotional impact and its impact on their education. Feeling unsafe at school has been correlated with declining academic performance, skipping school and dropping out. A recent survey found that nearly one-third (32

percent) of students who experienced harassment reported not wanting to go to school as a result of the harassment, and girls were more likely than boys to report harassment affecting them in this way.”³

4. Further research has shown that “girls who drop out of school due to sexual or gender based harassment, the long term economic impact can be devastating. Young women who don’t graduate from high school have higher rates of unemployment than men who drop out. Female dropouts are more likely to live in poverty than both men and women with higher educational attainment.”⁴

5. Plaintiff seeks to recover compensatory damages that are sufficient to compensate her minor daughter, B.M.L. for all of the injury and harm that she suffered, and will continue to suffer, as a result of the sexual harassment and misconduct that is the subject of this lawsuit in an amount to be determined by a jury.

6. Plaintiff also seeks to recover special damages for the cost of medical and psychological treatment, and counseling that will be necessary, in order to appropriately address said injury and harm, including the costs of therapy for other family members to assist them in dealing with B.M.L.’s problems, in an amount to be proven at trial.

³ *Title IX 40 Years and Counting*, National Women’s Law Center, June 2012.

⁴ *Id.*

7. In view of the far-reaching effects of teacher-student sexual harassment, and peer-on-peer sexual harassment and abuse, and in view of the evidence that a number of students were harassed and abused by Sullivan, Plaintiff seeks injunctive relief and mandatory relief directing the Defendant Jefferson Schools to take remedial action to:

- a.) Discretely identify students who have been subjected to sexual harassment and abuse by Defendant Sullivan, with due regard to the privacy of the individuals involved;
- b.) Make counseling and other support services available to all such students, including B.M.L.;
- c.) Adopt appropriate curricula to educate students at all levels about teacher-student sexual harassment and peer-on-peer sexual harassment;
- d.) Adopt appropriate training for all educators, administrators, and other School District personnel regarding the prevention of teacher-student and peer-on-peer sexual harassment; and
- e.) Institute any and all other remedial measures that might be deemed necessary or appropriate by the Court.

8. Plaintiff is entitled to recover reasonable attorney's fees and litigation expenses pursuant to 42 U.S.C. §1988 and other applicable law.

WHEREFORE, Plaintiff respectfully demands the following:

- A. That this action be tried to a jury;
- B. That judgment be entered in favor of the Plaintiff and against the Defendants for damages in an amount to be determined by the jury at the time of trial;
- C. That the Court enter an order granting the equitable relief sought herein, as well as any other appropriate injunctive or mandatory relief;
- D. That Plaintiff be awarded reasonable attorney's fees and litigation expenses;
- E. That all costs of this action be taxed against Defendants; and
- F. That the Court award any additional or alternative relief as may be appropriate under the circumstances.

A JURY TRIAL IS DEMANDED

Plaintiff, A.L.S., Individually, and as Next Friend, Parent, and Natural Guardian of B.M.L., a Minor (“Plaintiff”), through her attorneys, Nykanen Dorfman, PLLC, hereby request a trial by jury of all issues so triable in the above action.

Respectfully Submitted,
NYKANEN DORFMAN, PLLC

/s/ Michael R. Dorfman

MICHAEL R. DORFMAN (P60955)
33493 West Fourteen Mile Road
Suite 100
Farmington Hills, Michigan 48331
(248) 629-0880
mike@nykanendorfman.com

Dated: August 26, 2014