

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ESTATE OF EMILIE GRACE XIAO YING : CASE NO.: 1:15-00787
OLSEN, deceased, by and through MARC :
AND CYNTHIA OLSEN, as Co- : JUDGE _____
Administrators of the Estate; :
:

MARC OLSEN, individually; :
:

CYNTHIA OLSEN, individually; and :
:

C.O., a minor, by and through MARC :
AND CYNTHIA OLSEN, as Parents and :
Next Friends; :

Plaintiffs, :

vs. :

FAIRFIELD CITY SCHOOL DISTRICT :
BOARD OF EDUCATION; :

FAIRFIELD CITY SCHOOL DISTRICT; :
:

PAUL OTTEN, Superintendent, Fairfield :
City School District, in his individual and :
official capacities; :

LINCOLN BUTTS, Principal, Fairfield :
Middle School, in his individual and :
official capacities; :

JEFF MADDEN, Principal, Fairfield :
Intermediate School, in his individual and :
official capacities; :

MARK RICE, Assistant Principal, :
Fairfield Middle School, in his individual :
and official capacities; :

ALLISON CLINE, Assistant Principal, :
Fairfield Intermediate School, in her :
individual and official capacities; :

MELISSA "MISSY" MULLER, Assistant :
:

**COMPLAINT FOR
DECLARATORY JUDGMENT,
INJUNCTIVE RELIEF, AND
DAMAGES, WITH JURY
DEMAND ENDORSED HEREON**

Principal, Fairfield Intermediate School, :
in her individual and official capacities; :

NANCY WASMER, Assistant Principal, :
Fairfield Middle School, in her individual :
and official capacities; :

ERICA GREEN, Counselor, Fairfield :
Middle School, in her individual and :
official capacities; :

CANDY BADER, Teacher, Fairfield :
Intermediate School, in her individual :
and official capacities; :

MINOR STUDENT 1, a minor; :

MINOR STUDENT 2, a minor; :

MINOR STUDENT 3, a minor; :

MINOR STUDENT 4, a minor; :

MINOR STUDENT 5, a minor; :

MINOR STUDENT 6, a minor; :

MINOR STUDENT 7, a minor; :

MINOR STUDENT 8, a minor; :

JOHN/JANE DOES 1-10, students and/or :
former students of Fairfield City Schools, :
addresses unknown; :

JOHN/JANE DOES 11-20, Fairfield City :
School District employees, administrators :
and teachers, in their official and :
individual capacities, addresses :
unknown; :

JOHN/JANE DOE 21, Fairfield City :
School District Title IX :
coordinator/administrator, address :
unknown; :

Defendants.

INTRODUCTION

This action challenges the bullying, harassment, and sexual and racial discrimination suffered by Emilie Olsen, deceased, (“Emilie”) at Fairfield Middle School and Fairfield Intermediate Middle School before her death. Emilie, an Asian-American, was continually bullied, harassed, assaulted, battered, and discriminated against in school, and further bullied and harassed online, because of her race, national origin, and gender, as well as her association with Caucasian students, and her perceived sexual orientation and practices. Emilie and her parents tried to end the bullying and repeatedly pleaded with certain Defendants for help. Defendants failed to stop the bullying, and it continued. Consequently, Emilie suffered severe anguish, distress, and depression, and ultimately committed suicide. Sadly, Emilie’s case was not an outlier; other Fairfield students also suffered unrelenting bullying and discrimination, and two of those students attempted suicide months before Emilie’s death. Certain of the Defendants, likewise, failed to intervene on behalf of these students.

This action seeks damages and seeks to reform the Fairfield City Public Schools’ policies and practices for responding to bullying, harassment, assault, battery, and discrimination.

JURISDICTION AND VENUE

1. This Court has jurisdiction over Plaintiffs’ claims pursuant to 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the Constitution and laws of the United States. Jurisdiction is also proper over Plaintiffs’ claims under 28 U.S.C. §§ 2201-2202 because Plaintiffs seek a declaration of their civil rights. This Court has supplemental jurisdiction over Plaintiffs’ related state law claims under 29 U.S.C. §

1367(a) because those claims arise out of the same case or controversy as Plaintiffs' federal claims.

2. Venue is proper in this Court under 28 U.S.C. § 1391(b) because one or more of the Defendants reside within this Court's judicial district and a substantial part of the events or omissions giving rise to the claims occurred within the judicial district.

PARTIES

3. Plaintiff, MARC OLSEN, is Emilie's father and the co-administrator of her estate. He sues individually, as the co-administrator of Emilie's estate, and as parent and next friend of C.O., the minor sister of Emilie.

4. Plaintiff, CYNTHIA OLSEN ("Cindy Olsen,") is Emilie's mother and the co-administrator of her estate. She sues individually, as the co-administrator of Emilie's estate, and as guardian and next friend of C. O., the minor sister of Emilie Olsen.

5. Plaintiff, C.O., is the minor sister of Emilie.

6. Defendant, FAIRFIELD CITY SCHOOL DISTRICT BOARD OF EDUCATION ("School Board,") is a public entity which, acting under color of law, is responsible for the formulation and implementation of all official governmental laws, policies, regulations and procedures in effect for the Fairfield City School District. The School Board is a "person" within the meaning of 42 U.S.C. § 1983 and a political subdivision under the laws of the State of Ohio. Upon information and belief, the School Board receives federal financial assistance.

7. Defendant, FAIRFIELD CITY SCHOOL DISTRICT ("School District,") is an independent public school district. The School District is a "person" within the meaning of 42 U.S.C. § 1983 and a political subdivision under the laws of the State of Ohio. Fairfield Middle School and Fairfield Intermediate School are schools within the

School District. Upon information and belief, the School District and each of its component schools are recipients of federal financial assistance.

8. Defendant, PAUL OTTEN (“Superintendent Otten” or “Mr. Otten,”) sued in his individual and official capacities, is and was at all relevant times the Superintendent of Fairfield City School District. In that capacity, acting under color of law, he holds final policy-making authority for the School District with respect to implementation of all official governmental laws, policies, regulations and procedures governing the Fairfield City Schools, including enforcement of anti-bullying, anti-harassment, and anti-discrimination policies within the School District. As Superintendent, he has the ability and authority to take corrective action on behalf of the School District to stop bullying, harassment, assault/battery, and discrimination within the District and to discipline perpetrators of such actions. Superintendent Otten is sued in both his individual and official capacities.

9. Defendant, LINCOLN BUTTS (“Principal Butts” or “Mr. Butts,”) sued in his individual and official capacities, was, at all relevant times, the Principal of the Fairfield Middle School. In that capacity, acting under color of law, he held final policymaking authority with respect to implementation and enforcement of all official governmental laws, policies, regulations and procedures governing the Fairfield Middle School, including implementation and enforcement of anti-bullying, anti-harassment, anti-assault/battery, and anti-discrimination policies within the School District. As Principal, he had the ability and authority to take corrective action on behalf of the School District to stop bullying, harassment, assault/battery, and discrimination within the Fairfield Middle School and to discipline perpetrators of such actions.

10. Defendant, JEFF MADDEN (“Principal Madden” or “Mr. Madden,”) sued in his individual and official capacities, was, at all relevant times, the Principal of the Fairfield Intermediate School. In that capacity, acting under color of law, he held final policymaking authority with respect to implementation and enforcement of all official governmental laws, policies, regulations and procedures governing the Fairfield Intermediate School, including implementation and enforcement of anti-bullying, anti-harassment, anti-assault/battery, and anti-discrimination policies within the School District. As Principal, he had the ability and authority to take corrective action on behalf of the School District to stop bullying, harassment, assault/battery, and discrimination within the Fairfield Intermediate School and to discipline perpetrators of such actions.

11. Defendant, MARK RICE (“Assistant Principal Rice” or “Mr. Rice,”) sued in his individual and official capacities, was, at all relevant times, an Assistant Principal of the Fairfield Middle School. In that capacity, acting under color of law, he had the ability and authority to take corrective action on behalf of the School District to stop bullying, harassment, assault/battery, and discrimination within the Fairfield Middle School and to discipline perpetrators of such actions.

12. Defendant, ALLISON CLINE (“Assistant Principal Cline” or “Ms. Cline,”) sued in her individual and official capacities, was, at all relevant times, an Assistant Principal of the Fairfield Intermediate School. In that capacity, acting under color of law, she had the ability and authority to take corrective action on behalf of the School District to stop bullying, harassment, assault/battery and discrimination within the Fairfield Intermediate School and to discipline perpetrators of such actions.

13. Defendant, MELISSA “MISSY” MULLER (“Assistant Principal Muller” or “Ms. Muller,”) sued in her individual and official capacities, was, at all relevant times, an

Assistant Principal of the Fairfield Intermediate School. In that capacity, acting under color of law, she had the ability and authority to take corrective action on behalf of the School District to stop bullying, harassment, assault/battery and discrimination within the Fairfield Intermediate School and to discipline perpetrators of such actions.

14. Defendant, NANCY WASMER (“Assistant Principal Wasmer” or “Ms. Wasmer,”) sued in her individual and official capacities, was, at all relevant times, an Assistant Principal of the Fairfield Middle School. In that capacity, acting under color of law, she had the ability and authority to take corrective action on behalf of the School District to stop bullying, harassment, assault/battery and discrimination within the Fairfield Middle School and to discipline perpetrators of such actions.

15. Defendant, ERICA GREEN (“Guidance Counselor Green” or “Ms. Green,”) sued in her individual and official capacities, was, at all relevant times, a full-time employee of the Fairfield Middle School, serving in the capacity of Guidance Counselor.

16. Defendant, CANDY BADER (“Ms. Bader,”) sued in her individual and official capacities, was, at all relevant times, a full-time employee of the Fairfield Intermediate School, serving in the capacity of classroom teacher.

17. Defendant, MINOR STUDENT 1, is a minor. At all times relevant to this action she was a resident of Ohio.

18. Defendant, MINOR STUDENT 2, is a minor. At all times relevant to this action she was a resident of Ohio.

19. Defendant, MINOR STUDENT 3, is a minor. At all times relevant to this action she was a resident of Ohio.

20. Defendant, MINOR STUDENT 4, is a minor. At all times relevant to this action he was a resident of Ohio.

21. Defendant, MINOR STUDENT 5, is a minor. At all times relevant to this action he was a minor.

22. Defendant, MINOR STUDENT 6, is a minor. At all times relevant to this action he was a minor.

23. Defendant, MINOR STUDENT 7, is a minor. At all times relevant to this action he was a minor.

24. Defendant, MINOR STUDENT 8, upon information and belief, is and was at all times relevant to this action, a minor.

25. Defendants, JOHN DOES 1-10, are believed to be students and/or former students of the Fairfield City Public Schools who bullied, harassed, assaulted/battered, and/or discriminated against Emilie Olsen on the basis of sex and/or race/national origin. Their names and addresses are currently unknown.

26. Defendants, JOHN DOES 11-20, are full-time employees, administrators or teachers of the Fairfield City School District, some or all of whom, in that capacity and acting under color of law, are responsible for the formulation and implementation of all official governmental laws, policies, regulations and procedures in effect for the Fairfield City School District. They are sued in their individual and official capacities. Their names and addresses are currently unknown.

27. Defendant, JOHN/JANE DOE 21, is the Title IX coordinator/administrator for the Fairfield City School District and/or Fairfield Middle School and/or Fairfield Intermediate School. He/she is sued in his/her individual and official capacities. His/her name and address is currently unknown.

STATEMENT OF FACTS

28. Emilie was an Asian-American female adopted by Marc and Cindy Olsen, at the age of nine months.

29. Emilie was consistently a straight “A” student in elementary school and prided herself in her work. She earned the President’s Award and attendance awards.

30. In August of 2012, Emilie entered the fifth grade at Fairfield Intermediate School.

31. In August of 2013, Emilie entered the sixth grade at Fairfield Intermediate School. Upon information and belief, Emilie’s class schedule and teachers for the 2013-2014 school year were as follows: Language Arts/Writing: Ann Sackenheim/Jennifer Steelman; Social Studies: Theresa Lynch; Math: James Madden; Science/Health: Jamil Manning; Physical Education: Aaron Fitzstephens. Further, upon information and belief, the Principal of the Fairfield Intermediate School for the 2013-2014 school year was Jeff Madden; and Assistant Principals were Allison Cline and Melissa “Missy” Muller.

32. In August 2014, Emilie entered the seventh grade at Fairfield Middle School. Upon information and belief, Emilie’s class schedule and teachers for the 2014-2015 school year were as follows: Money Management: Allison Fullhart; Language Arts: Julie Crutcher; Science: Christine Ninneman; Family & Consumer Science: Emily Blades; Math: Timothy Lewis; Math/Intervention Specialist: Tiffany Mariol; World History: Ronald Fernandez. Further, upon information and belief, the Principal of the Fairfield Middle School for the 2014-2015 school year was Lincoln Butts; Assistant Principals were Nancy Wasmer and Mark Rice.

33. During her fifth grade year in 2012, her sixth grade year in 2013, and her seventh grade year in 2014, Emilie was the victim of bullying, discrimination, harassment, assault and battery by fellow students based on her race, gender, nationality, perceived sexual orientation, perceived sexual practices, and her association with a group of Caucasian Fairfield students who wore camouflage clothing and were labeled as “country” or “fake country.”

34. During her sixth grade year at Fairfield Intermediate School (“FIS”), in 2013-2014, Emilie was repeatedly bullied and harassed. Upon information and belief, a female sixth grade FIS student, namely MINOR STUDENT 1, repeatedly bullied and harassed Emilie, both verbally and on various social media sites.

35. On one occasion, during her sixth grade year at Fairfield Intermediate School, in 2013-2014, the same female sixth grade FIS student, namely MINOR STUDENT 1, followed Emilie into the girl’s FIS restroom located near the library, and handed Emilie a razor and told her to “end her life.”

36. On another occasion, during her sixth grade year at Fairfield Intermediate School, in 2013-2014, the same female sixth grade FIS student, namely MINOR STUDENT 1, utilized various social media sites to bully and harass Emilie. Upon information and belief, MINOR STUDENT 1 told Emilie to “go cut one of your vanes and die cuz I will be glad.”

37. Throughout her sixth grade year at Fairfield Intermediate School, Emilie was continually bullied by a group of sixth grade FIS students, namely MINOR STUDENT 2, MINOR STUDENT 3, MINOR STUDENT 4, MINOR STUDENT 7, MINOR STUDENT 9, and MINOR STUDENT 10.

38. Several of these students also physically battered and assaulted Emilie, including without limitation MINOR STUDENTS 2, 4, and 7.

39. These FIS students repeatedly bullied Emilie during class and in the hallways of Fairfield Intermediate School.

40. Upon information and belief, according to other FIS students, MINOR STUDENT 2 and MINOR STUDENT 3 were the “leaders” of this group of FIS students.

41. This group of FIS students discriminated against, harassed and bullied Emilie in part because she was Asian and/or Chinese.

42. This group would ridicule Emilie as being “fake country” because she wore camouflage clothing, cowboy boots and/or other items of clothing/paraphernalia perceived as “country” or “fake country.” Further, these same FIS students would tell Emilie that she couldn’t be “country” because she was Asian and/or Chinese.

43. During her sixth grade year at Fairfield Intermediate School, in approximately the Fall/Winter of 2013, a fake Instagram account was created, entitled “Emilie Olsen is Gay.”

44. Upon information and belief, the fake Instagram account was created by MINOR STUDENT 2, a female sixth grade FIS student.

45. The fake Instagram account included the statement: “I’m Emilie I’m Gay and I love to F*** [expletive deleted] random people in the woods and I love to chew tobacco and if U wanna F*** [expletive deleted] just meet somewhere in the woods.”

46. The fake Instagram account also made derogatory references to Emilie’s perceived sexual orientation and sexual practices.

47. During her sixth grade year at Fairfield Intermediate School, in approximately January 2014, Emilie was involved in a physical altercation with the same female sixth grade FIS student, namely MINOR STUDENT 2, in the gym at FIS.

48. During the incident, MINOR STUDENT 2 slapped Emilie in the face and pushed her in the course of an argument about the fake Instagram account which MINOR STUDENT 2 reportedly created.

49. The incident in the FIS gym was witnessed by numerous other sixth grade FIS students, including, but not limited to MINOR STUDENT 3, MINOR STUDENT 7 and MINOR STUDENT 9, and WITNESS 4. WITNESS 4 was a female, Asian-American classmate and friend of Emilie Olsen.

50. Fairfield City School District teacher, Candy Bader, was also a witness to the physical altercation in the FIS gym between Emilie and MINOR STUDENT 2.

51. Ms. Bader broke up the fight in the gym between Emilie and MINOR STUDENT 2, and sent all students "back to class."

52. Upon information and belief, no investigation was conducted by Ms. Bader or FIS administrators, and no disciplinary action was imposed on anyone on that date. Moreover, neither Ms. Bader nor the FIS administrators reported the physical altercation between Emilie and MINOR STUDENT 2 to Marc or Cindy Olsen.

53. Later following the incident in the gym, Emilie and MINOR STUDENT 2, and the other FIS students who witnessed the incident (except for WITNESS 4) were called to the Principal's office.

54. Upon information and belief, FIS still did not conduct any investigation, draft any report to document this incident or impose consequences on anyone and/or take any corrective action. Further, FIS still did not report the incident in the gym to

Marc and Cindy Olsen, nor did they inform the Olsens that Emilie was sent to see the Principal regarding the incident.

55. Marc and Cindy Olsen learned of the aforementioned physical battery on Emilie by FIS student, MINOR STUDENT 2, from WITNESS 4's father. Although present during the physical altercation, WITNESS 4 was the only student not called to the Principal's office following the incident in the gym.

56. On January 30, 2014, Marc Olsen contacted Assistant Principals, Melissa "Missy" Muller and Allison Cline, and reported that it was brought to his attention "last night" that Emilie had become the target of bullying by a few girls at FIS." Mr. Olsen reported to Ms. Muller and Ms. Cline via email at 9:20 a.m.:

"My name is Marc Olsen and I'm writing on behalf of my daughter Emilie Olsen . . . (6th Grader at FIS). It was brought to my attention last night that apparently Emilie has become the target of bullying by a few girls at FIS . . . after learning the details, I am very concerned . . . Emilie mentioned two (2) girls . . . one named "MINOR STUDENT 3" and another named "MINOR STUDENT 2" that she is having problems with. From what I understand there has already been physicality (kicking, pulling hair . . . etc.) between them. Unfortunately it goes beyond that . . . there is an "Instagram" site set up with pictures of Emilie . . . with verbiage next to them that says "she will F*** you in the woods" . . . "she is gay" etc. etc. . . . my wife and I are deeply troubled by what is going on. It is my attempt this morning to reach out to you ladies . . . to not only make you aware but also ask for any help you can give to get to the bottom of this. I have a bad feeling that if nothing is done then this has the possibility to escalate into something worse. My wife and/or I would be glad to meet with you if needed. We would appreciate you looking into this for us."

57. Marc Olsen received a telephone call back from one of the Assistant Principals at FIS, informing him that they were "going to take care of the situation."

58. In the days to follow, Marc Olsen made several telephone calls to Assistant Principals Muller and Cline, to find out what was being done to "take care of the situation" involving his daughter, Emilie.

59. One of the Assistant Principals called Marc Olsen back and said they had spoken to the girls and they were told that if it happened again, that there would be disciplinary action doled out.

60. Upon information and belief, no reports and/or forms were ever filled out by FIS administrators regarding this incident in the gym.

61. Upon information and belief, FIS took no action to investigate the bullying, harassment, cyberbullying and physical assault/battery involving Emilie and MINOR STUDENT 2, as reported by Marc Olsen.

62. Upon information and belief, FIS imposed no discipline upon MINOR STUDENT 2 for slapping Emilie.

63. Upon information and belief, FIS imposed no discipline on MINOR STUDENT 2 and the other FIS students who had created the fake Instagram account about Emilie, and took no action to ensure that these FIS students would stop bullying Emilie. Moreover, FIS took no further action to ensure that the fake Instagram site had, in fact, been taken down.

64. The incident in the gym between Emilie and MINOR STUDENT 2 was also reported to FIS by WITNESS 4's father in January/February 2014.

65. WITNESS 4's father also informed the school that the fight in the gym was not an isolated incident but rather part of a "pattern of harassment" against Emilie by a group of FIS students that included MINOR STUDENT 2.

66. In approximately April or May 2014, during her sixth grade year at Fairfield Intermediate School, Emilie was bullied and physically assault/battered by one or more African American Fairfield students when she was pushed into a locker.

67. As a direct result of the bullying and harassment she suffered throughout her the sixth grade school year at Fairfield Intermediate School, Emilie began to “cut” herself or otherwise self-harm, suffer depression, and express self-hatred and suicidal thoughts and impulses.

68. Emilie’s cell phone and social media accounts started to fill with references to bullying, depression and suicide.

69. By all accounts, Emilie’s emotional state improved during the summer of 2014, between her sixth and seventh grade years, while school was out of session but worsened again as her seventh grade year began in August 2014.

70. In approximately August 2014, just prior to the start of the 2014-2015 school year, Emilie received her class schedule for the upcoming school year and learned that she would be placed in the same “POD” (a sub-group of students from the same group) and classes as girls who had bullied her in the sixth grade at Fairfield Intermediate School.

71. These girls who had bullied Emilie in sixth grade included MINOR STUDENT 2 and MINOR STUDENT 3.

72. This particular POD was called the “Aquarius POD.”

73. Emilie was “very scared” to go back to school under the current arrangement of PODS and classes.

74. In approximately August 2014, Cindy Olsen telephoned Assistant Principal Mark Rice, and left a message for him to get Emilie’s POD changed, in an effort to get her away from the bullies, namely MINOR STUDENT 2 and MINOR STUDENT 3.

75. Mr. Rice did not return Cindy Olsen’s telephone call.

76. On August 15, 2014, Marc Olsen contacted Mark Rice via email and reported that “Emilie found out that there are some girls who gave her some grief (bullying) back in the 6th grade that will be on her team.”

77. In the August 15, 2014 email, Marc Olsen requested that Emilie be reassigned to another POD prior to the start of school.

78. Marc Olsen also attached his prior email dated January 30, 2014, wherein MINOR STUDENT 3 and MINOR STUDENT 2 were named as bullies, the physical batteries on Emilie were described, and the fake Instagram site entitled “Emilie Olsen is Gay” was reported.

79. Mr. Olsen requested FMS’s help and closed the email by stating, “We trust this will be a non-issue this year.”

80. Subsequent to his August 15, 2014 email but prior to the first day of school, Marc Olsen arranged for a meeting with Assistant Principal Mark Rice, regarding the bullying of Emilie and the issue of getting her POD changed.

81. Emilie attended the meeting as well. Emilie explained to Mr. Rice in detail about the bullying she had suffered the previous school year at the hands of MINOR STUDENT 2, MINOR STUDENT 3, and other FIS students.

82. Emilie identified many of her bullies by name. As she did so, Mr. Rice brought up each bully’s profile on his computer screen. Each profile had a picture of the bully.

83. Mr. Rice had Emilie confirm that each student pictured on the profile was one of her bullies. Emilie confirmed the identities of each of the bullies by their student profile.

84. Emilie told Mr. Rice she was “frightened to return to school.” Despite this, Mr. Rice refused to change Emilie’s POD.

85. Instead, Mr. Rice suggested that Emilie “test the water,” “try to make the most of it” for the first week of school, and “see how things went.” Mr. Rice also stated that changing Emilie’s POD was too inconvenient for the school’s administrators.

86. On August 20, 2014, Emilie began her seventh grade school year at Fairfield Middle School (“FMS”). The bullying and harassment of Emilie began immediately with the start of her seventh grade school year.

87. Accordingly, when Emilie’s seventh grade school year began at Fairfield Middle School, Emilie had not been reassigned out of the POD that included MINOR STUDENT 2, MINOR STUDENT 3 and the other confirmed bullies. These FMS students and others continued to bully, harass, and discriminate against Emilie.

88. During the first week of her seventh grade year at Fairfield Middle School, Emilie was bullied by one or more FMS students who had bullied her in the sixth grade at Fairfield Intermediate School.

89. MINOR STUDENT 2 sat behind Emilie during one of her classes at Fairfield Middle School. MINOR STUDENT 2 and Emilie were also in the same POD together - Aquarius.

90. MINOR STUDENT 2 quickly began to bully and harass Emilie in the classroom, verbally harassing her, pulling her hair, and engaging in other conduct.

91. Outside the classroom, MINOR STUDENT 2 physically battered Emilie by shoving and crashing into her “accidentally” while she walked the hallways of Fairfield Middle School.

92. During the first part of her seventh grade year at Fairfield Middle School, other FMS students witnessed the bullying and physical batteries on Emilie. During the first period of seventh grade, other FMS students witnessed a “few people tripped her a lot.”

93. After the first week of school of her seventh grade year at Fairfield Middle School, Emilie informed her father, Marc Olsen, that she was being bullied and harassed in the classroom, both verbally and physically, by other FMS students.

94. On August 25, 2014, Marc Olsen contacted Assistant Principal Mark Rice via email, and reported that Emile was still being bullied at Fairfield Middle School by a female seventh grade FMS student, MINOR STUDENT 2.

95. Further, Marc Olsen reported to Mr. Rice that “obviously MINOR STUDENT 2 had not forgotten about Emilie and the issues from the last school year.” Mr. Olsen reported that MINOR STUDENT 2 was now in Emilie’s classes and “is making gestures/noises towards Emilie that is making her very uncomfortable and disrupting her during class.”

96. Marc Olsen requested a class change be made at that time to separate MINOR STUDENT 2 from Emilie.

97. On or about September 9, 2014, during her seventh grade school year at Fairfield Middle School, a male seventh grade FMS student, MINOR STUDENT 4, pushed Emilie into a locker.

98. This incident was reported to Principal Lincoln Butts.

99. Upon information and belief, Principal Butts conducted no investigation and imposed no discipline in response to the incident.

100. During her seventh grade school year, Emilie suffered from multiple physical assaults/batteries that were witnessed by fellow FMS students.

101. On one occasion during her seventh grade year, Emilie was tripped in the breezeway by a group of FMS students who also smacked her books out of her hands.

102. On one occasion during her seventh grade year, a male seventh grade FMS student, namely MINOR STUDENT 5, tripped Emilie on the ramp in the 100 Wing, during the middle of the school day.

103. On one occasion during her seventh grade year, Emilie was intentionally tripped by Fairfield students outside the school bus compound, and many Fairfield students witnessed this and just laughed at Emilie.

104. During her seventh grade year, a male seventh grade FMS student, namely MINOR STUDENT 6, bullied and physically battered Emilie.

105. MINOR STUDENT 6 bullied Emilie by tripping her, by verbally harassing her, and by taking her pencils and breaking them – on a regular basis if not daily. Upon information and belief, MINOR STUDENT 6 admitted to other Fairfield students and parents that he bullied Emilie.

106. Emilie was also bullied and physically battered by one or more Fairfield students who deliberately “stepped on her heels” and “tried to trip her” as she walked the hallways of Fairfield Middle School during her school day.

107. Also, during her seventh grade year at Fairfield Middle School, Emilie was bullied and harassed by a male seventh grade FMS student, MINOR STUDENT 4.

108. MINOR STUDENT 4 would bully and harass Emilie by telling her that “Chinese people don’t wear camo.” Emilie reported these comments to her father, Marc Olsen.

109. On a separate occasion, during her seventh grade year at Fairfield Middle School, Emilie was pushed into a locker by a group of male Fairfield students who shouted at her, “Asians shouldn’t wear camo and boots.”

110. During her seventh grade year at Fairfield Middle School, a group of African-American Fairfield students also bullied Emilie, deriding her about why she wore camouflage clothing and other “country” clothing given the fact that she was an Asian.

111. These African-American students targeted Emilie in part because she was associated with a group of Caucasian students considered to be “country” or “fake country.”

112. During her seventh grade year at Fairfield Middle School, an African-American female eighth grade FMS student, namely MINOR STUDENT 11, bullied and harassed Emilie.

113. After Emilie’s death, a person believed to be MINOR STUDENT 11 posted a message on Instagram admitting that she was one of the persons who had bullied Emilie.

114. When asked on Instagram whether she bullied Emilie, MINOR STUDENT 11 responded: “Yeah and I am happy I did. One cracker down, one more to go. Emilie is a slut and lucky I did not find her and hang her.”

115. The treatment of Asian students was very poor at the Fairfield Schools during Emilie’s attendance there.

116. Asian students were frequently bullied and harassed for being “too smart,” or they were labeled as “Asian eyes.”

117. Even students who were not Asian but who were perceived as being Asian because of their physical appearance, were bullied and harassed. One Fairfield student perceived to be Asian was harassed for his “slanted eyes.”

118. Because of the racial discrimination she faced during her seventh grade year at Fairfield Middle School, Emilie asked her father, Marc Olsen, “[w]hy can’t I be white like you and mom?”

119. Emilie asked her parents for permission to dye her hair to look more like a white person.

120. In September 2014, on multiple occasions, derogatory and racist messages about Emilie were written on restroom walls, stalls and mirrors of various restrooms located in Fairfield Middle School.

121. Upon information and belief, these restrooms were used daily by both students and teachers, and “cleaned” on a regular basis by the maintenance crew for FMS, but the messages about Emilie were not removed or covered and remained visible.

122. The messages about Emilie included, but were not limited to, such things as “go die Emilie,” “Emilie is a ho,” “Emilie is a whore,” and “Go kill yourself Emilie,” and references to Emilie’s race/national origin.

123. These messages were written in very large letters for all to see. They were placed in locations that were easily observable and could not have been missed by anyone using the restrooms, including the School administrators, teachers and other employees.

124. The derogatory and racist messages written in the FMS restrooms about Emilie were reported and/or witnessed firsthand by FIS and/or FMS teachers/administrators, including a Mrs. Brinker.

125. Upon information and belief, the derogatory and racist messages written on the FMS restroom walls, stalls and mirrors about Emilie remained in place for months prior to her death, beginning in approximately September 2014 and continuing until after Emilie's death in December 2014.

126. On or about September 10, 2014, one of the derogatory restroom graffiti messages written about Emilie was shown to Nancy Wasmer, Assistant Principal of the Fairfield Middle School.

127. Upon information and belief, Ms. Wasmer took no action in response to being shown the derogatory and racist messages about Emilie, and Defendants allowed the messages to remain in place.

128. Upon information and belief, it was not until the day following Emilie's death, on or about December 12, 2014, that FMS administrators closed the FMS restrooms for a couple days and "painted over" the derogatory messages about Emilie.

129. On or about October 21, 2014, during Emilie's seventh grade year at Fairfield Middle School, a female seventh grade FMS student, believed to be MINOR STUDENT 1, and a group of her friends were involved in a verbal dispute with a group of Emilie's friends in or near the cafeteria of FMS during school hours.

130. The subject of the dispute was MINOR STUDENT 1's previously-made statement to Emilie that Emilie should go kill herself.

131. Emilie's friends were defending Emilie and asking MINOR STUDENT 1 to stop her incessant bullying of Emilie. The dispute escalated into yelling and cursing.

132. Defendant Mark Rice broke up the dispute that occurred on October 21, 2014.

133. Mr. Rice identified several FMS students who were involved in the dispute, and sent these students to Principal Butts' office.

134. These FMS students filled out written "incident reports" recounting what the dispute was about.

135. These written "incident reports" were turned in to the FMS administration and were maintained in the School's files.

136. In response to a public records request, the School has provided copies of these "incident reports" to Plaintiffs, but the identities of the students who authored the statements and the identities of the students referenced in the statements have been redacted by Defendants.

137. One student wrote, that: "We were just telling the people to stop messing with Emilie Olsen and then she started calling people names...." The identity of the student who started calling people names is believed to be female seventh grade FMS student, MINOR STUDENT 1. The identity of the student who authored the statement has been redacted by Defendants.

138. Another FMS student wrote: "Alright, so last year in the sixth grade this girl [Emilie Olsen] was getting bullied like bad and my sister just heard about it so she went up to the girl [believed to be MINOR STUDENT 1]" and confronted her and "they got into a big ole argument that turned into a fight. I pulled (redacted) and (redacted) back a few times then the horn went off. Everyone was still yelling at each other and (redacted) wouldn't stop with the cussing and (redacted) trying to get to her then Mr. (Mark) Rice came in and sent us up to the office." The identity of the student who authored the statement, and the identities of several individuals named in the statement, have been redacted by Defendants.

139. A third FMS student wrote: “People last year were messing with this girl I know [believed to be Emilie Olsen] and (we were) just telling people not to mess with her anymore and then it turned into a big fight...It was awful last year and people are still doing it this year and (we were) just telling them to stop.” The identity of the student who authored the statement has been redacted by Defendants.

140. A fourth FMS student, believed to be MINOR STUDENT 1, wrote: “A girl named (redacted) and her friend (redacted) sat at my table at lunch and were asking me if I said for their friend to kill themselves last year.” The identity of the student who authored the statement has been redacted by Defendants but is believed to be MINOR STUDENT 1.

141. The very next day, on October 22, 2014, Marc Olsen participated in a previously-scheduled meeting with Defendant Rice and Defendant Erica Green, the school Guidance Counselor.

142. Mr. Olsen’s purpose in scheduling the meeting had been to address all of his previously-expressed concerns about Emilie, including the bullying, falling grades and Emilie’s strange behavior.

143. Yet, at the October 22, 2014 meeting between Marc Olsen and Defendants Rice and Green, the School did not inform Mr. Olsen of the cafeteria fight regarding Emilie that had occurred the day before, despite the fact that: (a) the school had direct knowledge of the fight; (b) Mark Rice was directly involved in breaking up the fight; (c) FMS was in possession of four “incident reports” from participants in the fight; (d) the bullying of Emilie was the subject of the fight, including MINOR STUDENT 1’s statement that Emilie should “go kill herself”; and (e) FMS was aware of a pattern of

bullying against Emilie, and was aware of Marc and Cindy Olsen's repeated request for the school to end the bullying and keep them apprised of any additional bullying.

144. Defendants Rice and Green also failed to provide Marc Olsen any details regarding the topic of the dispute, inform him that MINOR STUDENT 1 had allegedly told Emilie to go kill herself, or discuss what FMS's response would be to the fight or to MINOR STUDENT 1's bullying of Emilie.

145. Instead, at the October 22, 2014 meeting, Defendants Green and Rice told Marc Olsen that despite Emilie's complaints of bullying, FMS would not move Emilie out of the Aquarius POD, and that Emilie simply "needed to buckle down" and deal with it.

146. Immediately following the October 22, 2014 meeting, while Marc Olsen was still at Fairfield Middle School, Mr. Rice told Mr. Olsen that WITNESS 5, had just come to the Principal's Office and made a report against Fairfield Middle School teacher Tim Lewis, for berating Emilie about her poor school work and lack of friends.

147. Mr. Olsen immediately located Mr. Lewis and confronted him about the report made by WITNESS 5. Mr. Lewis offered no response.

148. Defendants took no action to investigate or otherwise respond to WITNESS 5's report against Mr. Lewis.

149. In the days following the October 21, 2014 cafeteria dispute involving MINOR STUDENT 1, Emilie became physically ill and began vomiting and was not well enough to attend school. Emilie was absent from school October 23, 24 and 25.

150. Marc Olsen emailed the school to alert them that Emilie was physically ill and vomiting. FMS still did not inform Mr. Olsen at that time that Emilie had recently

been the subject of and/or involved in the cafeteria fight or that they now even had witness statements verifying the prolonged bullying of Emilie.

151. On October 24, 2014, Marc Olsen followed up with an email to FMS teachers Lewis, Fernandez, Crutcher, Ninneman, and Blades, informing them that Emilie had become physically sick from the recent stress she was enduring at school.

152. Beyond taking written statements from several participants in the cafeteria fight, Defendants took no action to investigate: (a) the cafeteria fight; (b) MINOR STUDENT 1's bullying of Emile; (c) MINOR STUDENT 1's statement that Emilie should kill herself; or the witness statements they now possessed about the prolonged bullying of Emilie.

153. Defendants did not discipline or take any corrective action with regard to MINOR STUDENT 1 or any other students who had bullied Emilie.

154. Defendants did not offer Emilie counseling or any other support for the bullying she was suffering.

155. Marc and Cindy Olsen did not learn of the October 21, 2014, cafeteria fight or of MINOR STUDENT 1's statement that Emilie should "go kill herself" until after Emilie committed suicide on December 11, 2014.

156. In the weeks following his October 22, 2014 meeting with Defendants Rice and Green, and throughout the Fall of 2014, Marc Olsen emailed several school officials, including FMS teachers Bamberger (aka Fullhart), Lewis, Fernandez, Crutcher, Blades and Ninneman.

157. Mr. Olsen reported to these officials that Emilie had been failing multiple tests and not turning in assigned work, that she was doing it deliberately, and that it seemed to have something to do with her wanting to be moved out of the Aquarius POD.

158. Mr. Olsen reported to these officials that all of a sudden Emilie did not like her teachers and claimed they were moving too fast with the material, which was out of character for her since she had never had any problems keeping up with school work.

159. Mr. Olsen pleaded with these officials to help with Emilie.

160. Several teachers observed that Emilie's grades were dropping precipitously, that she had failed multiple tests, that she had exhibited out-of-character behavior in class, and that she suddenly lacked interest in her school work.

161. These teachers included Lewis, Fernandez, Crutcher, Ninneman, Bamberger (aka Fullhart), and Blades.

162. Despite these teachers' observations, and despite the Defendants' knowledge that Emilie had suffered a pattern of bullying from Fairfield students, Defendants did not take any action to: (a) investigate or end the bullying; (b) inform the Olsens that the bullying was occurring; (c) ensure that Emilie received counseling for the bullying she was enduring or for her strange behavior or falling grades; or (d) protect Emilie from contact with the bullies.

163. On numerous occasions, Marc and Cindy Olsen contacted Fairfield Middle School to report that Emilie was being bullied and physically battered, that she suddenly hated going to school, that her grades were slipping despite the fact that she was traditionally a straight "A" student, and that she was exhibiting abnormal behavior at home.

164. But each time the Olsens contacted the school, the Defendants either took no action or took ineffective action to stop the bullying, discrimination and harassment.

165. Marc Olsen made it clear to the Defendants that Emilie's poor grades and strange behavior were not isolated to a single class, but were endemic to all of her classes. He specifically informed Mr. Lewis of this fact on or about October 22, 2014.

166. On or about October 27, 2014, FMS imposed a lunch detention on Emilie for an unspecified reason, without providing her a warning, and failed to inform Marc and Cindy Olsen about it.

167. Upon information and belief, neither FIS nor FMS imposed any discipline on any student who bullied Emilie during the entire sixth or seventh grade years.

168. During her seventh grade year at Fairfield Middle School, Emilie was also bullied and physically battered when she attended school affiliated events outside of the classroom.

169. Specifically, Emilie was bullied and physically battered at one of the Fairfield football games she was attending when several Fairfield students pushed her into a fence and yelled discriminatory comments in her face.

170. On November 3, 2014, Emilie completed a "True Color Personality Quiz" in her life and career planning class at School. The quiz asked Emilie about her personality.

171. In filling out the quiz, Emilie described her "bad day symptoms" as "crying, depressing, yelling and screaming, passive resistance, and going into trance."

172. Emilie's quiz was turned in to school officials and maintained in Defendants' files.

173. Defendants never informed Marc and Cindy Olsen that Emilie had taken the quiz or that she had provided the aforementioned responses.

174. Despite their receipt of and knowledge of the quiz answers from Emilie, Defendants never offered Emilie counseling or support, and upon information and belief, Defendants took no further action to investigate or respond, despite their knowledge of the bullying Emilie had suffered and her falling grades and strange behavior.

175. Upon information and belief, Fairfield student MINOR STUDENT 12 harassed Emilie and called her names.

176. A person believed to be MINOR STUDENT 12 sent Emilie a Facebook message on November 6, 2014, stating that, "I am sorry for calling you all those names."

177. On November 10, 2014, Marc Olsen emailed FMS teachers Lewis, Fernandez, Crutcher, Ninneman and Blades, and reported seeing a "dramatic change" for the worse in Emilie over the past few weeks.

178. In approximately November 2014, a Facebook account or profile was created about Emilie and/or was used to bully and harass Emilie.

179. Upon information and belief, the account was created by and/or registered to MINOR STUDENT 8.

180. On or about November 30, 2104, MINOR STUDENT 8 bullied, sexually harassed, and made racially discriminatory remarks against Emilie using the Facebook account.

181. MINOR STUDENT 8 published/sent Facebook messages to Emilie such as "come suck me off," "nobody wants to be your fucking friend," "dumb bitch why you try and be friends with me," "you never had a dick in your life shit," "shut that ugly ass up bitch. All you need right now is a dick in your mouth," "I'll bend you over," "nobody wants to touch your Ebola looking ass. Go back to Africa," "you're stupider than I

thought,” “mud shark,” “you’re ugly,” “your pictures look so gay...get the fuck out of here you sad ass bitch,” “you get no dick,” “fuck you fat ass bitch,” and “where the fuck y’all rednecks live anyways, you’re too ugly to die.”

182. MINOR STUDENT 8 also suggested that people should have sex with Emilie as a form of exercise, saying “hey ride this [referring to Emilie] you will lose weight.”

183. The Facebook account or profile also made derogatory references to Emilie’s perceived sexual orientation and sexual practices, including but not limited to, the status of Emilie’s relationships with other FMS students.

184. Emilie was bullied and harassed by other Fairfield students when she became the target of the Facebook account or profile.

185. On November 30, 2014, in a Facebook exchange between Emilie and a friend, Emilie expressed that she was hurt by the Facebook account that MINOR STUDENT 8 created about her and/or used to bully and harass her.

186. During her seventh grade year at Fairfield Middle School, Emilie confided to a friend that a certain male seventh grade FMS student, namely MINOR STUDENT 7, had been “really mean to her on Facebook.”

187. Following her death, a person believed to be MINOR STUDENT 5, posted an online message admitting that he was one of the students who “bullied” Emilie.

188. As a result of the bullying she suffered during her seventh grade year at Fairfield Middle School, Emilie began to “cut” herself again or otherwise self-harm, suffer depression, and express self-hatred and suicidal thoughts and impulses.

189. Emilie’s cellphone and social media accounts continued to include references to bullying, depression and suicide.

190. Emilie went online and asked anonymous strangers whether they had ever been bullied before.

191. Emilie viewed online accounts from celebrities who had been bullied in school. She also viewed a website that displayed pictures of nine people and displayed a message stating: “8 victims of bullying, 1 killed herself.”

192. Emilie also viewed a website which read “I’m just a kid and my life is a nightmare.” She accessed another website with a picture of a young girl’s forearms that had been intentionally cut, with a message that read “I’m not strong anymore.”

193. Emilie became increasingly distressed by the bullying and discrimination she was suffering at Fairfield Middle School.

194. On December 1, 2014, Emilie had a Facebook exchange with a friend in which she wrote:

I [am] causing all this trouble on earth. And people look at me like I’m a freak and I’m tired of it. It hurts when you have to explain yourself to people you don’t know or like. You feel them judging you, staring at you, talking about you, and I’ve made up my mind, I wanna die. My New Year’s resolution is to die. To have my perfect suicide go as planned. That’s all I want. Cause I’m just so tired of it all...nobody would even notice or care, so why should I? Putting a gun to my head and pulling the trigger now if that’s the only thing that will work then I will do anything to have a gun in my hand. I have the perfect plan. To the perfect suicide...but why does suicide seem like the only way out? I never wanted to die in my life and now I do. ... I hate what I have become...the only people I have are you guys. Everyone else hates me to death. Even if there adults they hate me. I can’t please anyone with anything I do. Not even my teachers. It’s like think I am some sort of freak. God doesn’t want me alive. I know he doesn’t.

195. On December 5, 2014, Julie Crutcher, the language arts teacher at Fairfield Middle School, emailed Marc Olsen. Ms. Crutcher reported that she had observed instances of Emilie sitting by herself in the lunch room, and often not eating lunch.

196. Ms. Crutcher also reported that Emilie rarely smiled in school and only responded to questions with one word answers.

197. Ms. Crutcher offered to have the school counselor speak to Emilie.

198. Upon information and belief, Defendants did not arrange for Emilie to speak with a counselor, and Defendants failed to take any further action to address the situation.

199. At some point in December 2014, Emilie showed a friend a bullet she had obtained. Emilie also drew in her math notebook a picture of a handgun with a bullet being discharged.

200. On December 11, 2014, Emilie committed suicide at her home.

201. On or about December 16, 2014, at approximately 11:30 a.m., Defendant Lincoln Butts, the FMS principal, entered onto the property of Marc and Cindy Olsen unannounced and without authorization, accompanied by two Fairfield Township police officers.

202. The officers flashed their badges and demanded that Marc Olsen let them in the house. At least one of the officers had a firearm visible on his person.

203. Marc Olsen asked them what this was about and they did not respond. Marc Olsen asked them how long it would take and they said “as long as it takes.” They were extremely rude throughout the encounter.

204. Butts and the officers attempted to intimidate Marc Olsen into “shutting up” and ceasing all interviews with the local media. They told Marc Olsen he was “stirring the pot” and “entertaining rumors” and in doing so “causing an issue for the school and the community.”

205. Marc and Cindy Olsen became very upset, so Marc Olsen told Butts and the officers that the discussion was over and they needed to leave his home.

206. One of the officers told Marc Olsen to sit back down because they were not finished. Marc Olsen told him that he had 60 seconds to make his point.

207. Marc Olsen then made a second demand for them to leave. They still refused to leave. Finally, after more discussion, Marc Olsen was able to persuade Butts and the officers to leave his property.

Fairfield's Failure to Follow its Own Anti-Bullying Policy

208. Fairfield's Bullying Policy (JFCF) and Fairfield Board of Education Regulation JFCF-R are written as a series of mandatory duties that district employees must fulfill in response to bullying of students.

209. These duties include: the duty to report acts of bullying, the duty to promptly investigate all complaints of bullying, the duty to report acts of bullying to parents, the duty to report criminal acts or child abuse to the proper authorities, the duty to develop strategies against continued harassment/bullying of students, and the duty to impose appropriate discipline on bullies.

210. Policy JFCF states: "Hazing and Bullying in all forms are prohibited in the Fairfield School District."

211. Under the policy, the definition of bullying states: "Bullying, harassment and intimidation is an intentional written, verbal, or physical act that a student has exhibited toward another particular student more than once and the behavior causes mental and/or physical harm to the other student and is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or abusive educational environment for the other student. * * * Prohibited activities of any type, including those

activities engaged in via computer and/or electronic communications devices or electronic means, are inconsistent with the educational process and are prohibited at all times.”

212. Policy JFCF-R states that “cyber-bullying” is prohibited and defines it as follows: “repetitive and hostile behavior with the intent to harm others through the use of information and communication technologies and other web-based/online sites (also known as ‘cyber bullying’), such as the following: A. posting slurs on websites, social networking sites, blogs or personal online journals; B. sending abusive or threatening e-mails, website postings or comments and instant messages; C. using camera phones to take embarrassing photographs or videos of students and/or distributing or posting the photos or videos online; and D. using websites, social networking sites, blogs or personal online journals, e-mails or instant messages to circulate gossip and rumors to other students.”

213. All Fairfield employees are required to “immediately report” acts of bullying/hazing to the Superintendent (or his designee), and “appropriate discipline” is supposed to be administered.

214. Formal, written reports or complaints of bullying/hazing from parents or students must be forwarded to the building principal (or his designee) “no later than the next school day.”

215. Informal complaints from parents or students must be written up into a report by the teacher/employee who received them, and forwarded to the building principal (or his designee) “no later than the next school day.”

216. The building principal or designee is required to ensure that “all complaints of bullying are investigated promptly.” A written report of the investigation

must also be prepared when the investigation is complete, including findings of fact, whether the bullying was verified, and a recommendation for intervention/discipline.

217. Verified acts of bullying, and any discipline imposed, must be reported in writing to the victim's custodial parent/guardian, and the bully's custodial parent/guardian.

218. Strategies to protect against continued harassment are supposed to be developed.

219. District administrators and employees may be subject to disciplinary action for failure to abide by the District's Anti-Bullying Policy.

220. Per District policy, report forms for bullying are to be completed. Blank bullying report forms are and were available at the schools and on the District's website at all relevant times.

221. However, upon information and belief, no reports were created regarding bullying of Emilie.

222. Defendants violated their own Anti-Bullying Policy as detailed throughout this Complaint.

Fairfield's Failure to Follow its Own Sexual Harassment Policy

223. Defendants' Sexual Harassment Policy prohibits sexual harassment and defines sexual harassment as: "unwelcome and unsolicited sexual advances, requests for sexual favors, sexually motivated physical conduct, and other verbal or physical conduct or communication of a sexual nature. ***"

224. The Policy lists examples including "sexually suggestive comments or behavior," "sexual or dirty jokes," "spreading rumors about or rating other persons as to sexual activity, performance, or appearance."

225. Per District policy, report forms for sexual harassment are to be completed. Blank forms are and were available at the schools and on the District's website at all relevant times.

226. However, upon information and belief, no reports were created regarding the sexual harassment of Emilie.

227. Defendants violated their own Sexual Harassment Policy as detailed throughout this Complaint.

Fairfield's Failure to Follow its Own Racial/National Origin Harassment Policy

228. Defendants' Racial and National Origin Harassment Policy prohibits such harassment.

229. The Policy defines racial harassment as "verbal or physical conduct relating to an individual's race or color, when the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic or work performance, or ... otherwise adversely affects an individual's learning or work opportunities."

230. National origin discrimination is defined as "verbal or physical conduct relating to an individual's ... country of origin..., when the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic or work performance, or ... otherwise adversely affects an individual's learning or work opportunities."

231. Examples of both racial and national origin harassment in the policy include the following when related to or motivated by national origin: "graffiti or writings," "threatening or intimidating conduct," "jokes, name calling, or rumors,"

“ethnic slurs, negative stereotypes, and hostile acts,” and “a physical act of aggression or assault upon another.”

232. Per District policy, report forms for racial/national origin harassment are to be completed. Blank forms are and were available at the schools and on the District’s website at all relevant times.

233. However, upon information and belief, no reports were created regarding the racial/national origin harassment of Emilie.

234. Defendants violated their own Racial/National Origin Harassment Policy as detailed throughout this Complaint.

Fairfield’s Failure to Follow its Own Student Code of Conduct

235. Defendants’ Student Code of Conduct states that “the Board has ‘zero tolerance’ of violent, disruptive or inappropriate behavior by its students.”

236. The Code of Conduct prohibits, among other things, assaulting another student physically, verbally, or in written or electronic form, sexual harassment, obscene language, racial intimidation or harassment, and bullying.

237. Defendants violated their own Student Code of Conduct as detailed throughout this Complaint.

Defendants’ Pattern and Practice of Failing to Properly Respond to Reports of Bullying, Harassment, and Discrimination

238. In addition to Emilie Olsen, other Fairfield students were also bullied, harassed and discriminated against, with the actual knowledge of the Defendants, and Defendants failed to appropriately respond to end those practices and protect the victims.

239. Defendants thereby engaged in a pattern and practice of failing to properly respond to incidents of bullying, harassment and discrimination.

240. Several specific examples of this pattern and practice are set forth below.

WITNESS 1

241. WITNESS 1 was an African-American, female sixth grade student at Fairfield Intermediate School in 2012-13.

242. During her sixth grade year, she bent over in the hallway to pick something up and a fellow male student claimed to have seen her breast.

243. This male student, as well as several others, began to mock, harass and bully WITNESS 1 incessantly about the breast incident.

244. WITNESS 1 reported the bullying to the Principal Jeff Madden. However, the school refused to take any action.

245. The school did not protect WITNESS 1 from the bullies in any fashion, and refused to change her classes or change her POD.

246. When WITNESS 1 began her seventh grade year at the Fairfield Middle School in 2013-2014, the same students who had bullied her about the breast incident started bullying her about it again.

247. WITNESS 1 found a note in her locker that read, "WITNESS 1 you're a dumb bitch your life sucks it will be for the rest of the year if you remain here die in a hole because no one likes you you're a bitch ass whore leave the school."

248. WITNESS 1 gave this note to the Principal Lincoln Butts.

249. Upon information and belief, neither Butts nor the school conducted any investigation or took any corrective action regarding the incident.

250. In the summer of 2014, prior to her eighth grade year at Fairfield Middle School, WITNESS 1 learned that someone had created a fake Instagram account displaying her photo and the message “bitch your ugly.”

251. A comment on the site read “look at yourself u r a fat bitch look at your stomach you look like a hippo look at your legs fat ass u r fake as fuck no one likes you kill yourself no one will miss you die whore.”

252. WITNESS 1’s mother met with FMS administrators and guidance counselors about the bullying of her daughter on several occasions and informed them of what WITNESS 1 was experiencing.

253. However, on information and belief, the school conducted no investigation and took no corrective action regarding the bullying of WITNESS 1

254. In July of 2014, several months before Emilie’s death, WITNESS 1 attempted suicide by taking a large number of pills from her mother’s prescription medication bottle, due to the bullying she was receiving at school.

255. Her suicide attempt was unsuccessful.

256. Following the attempt, WITNESS 1 spent 11 days at the psychiatric ward at Cincinnati Children’s Hospital.

257. Upon information and belief, Defendants have still not investigated, identified, or disciplined those who bullied WITNESS 1.

WITNESS 2

258. WITNESS 2 was a Caucasian female student at Fairfield Intermediate School who was bullied beginning in 2012-13 during her sixth grade year at FIS.

259. On her second day of sixth grade, as she was walking into school, a male Fairfield student intentionally struck her with his arm, and he and his friends began to ridicule her.

260. WITNESS 2 quickly began to dread going to school because of the bullying and harassment she received there.

261. WITNESS 2 was bullied at Fairfield largely because of her race and the perception that she was “country.”

262. A group of African American seventh grade female FMS students became angry at WITNESS 2 because WITNESS 2 had been seen talking to an African American male eighth grade FMS student, namely MINOR STUDENT 18.

263. This group of FMS students included: MINOR STUDENT 13; MINOR STUDENT 14; MINOR STUDENT 15; and MINOR STUDENT 16.

264. This group of FMS students would slam WITNESS 2 into lockers and yell obscenities and other harassing things at her, telling her to stay away from MINOR STUDENT 18 because he was a black boy and she (WITNESS 2) was a white girl.

265. WITNESS 2 was also bullied by an African American female eighth grade FMS student, namely MINOR STUDENT 17.

266. Among other things, MINOR STUDENT 17 would stand up in class and loudly accuse WITNESS 2 of intentionally cutting herself.

267. WITNESS 2 has also been bullied and harassed by African-American students for wearing certain items of clothing to school, such as a Confederate Flag t-shirt.

268. WITNESS 2 was repeatedly bullied on the school bus by an African American male seventh grade FMS student, namely MINOR STUDENT 6 (who also bullied Emilie), as well as other Fairfield students.

269. WITNESS 2 was also bullied and harassment through social media sites. Anonymous persons posted harassing messages on WITNESS 2's Instagram and Webstagram accounts or other social media sites, threatening to "murder your family" and calling her a "racist cunt."

270. Another message written to WITNESS 2 read, "I hope they shoot you cracker," and "hahaha you white people are pathetic."

271. Various Fairfield students, including MINOR STUDENT 6, would slam WITNESS 2 into lockers both before and after Emilie Olsen's death.

272. The bullying and harassment WITNESS 2 suffered at Fairfield Intermediate School and Fairfield Middle School became so bad that WITNESS 2 was admitted to Cincinnati Children's Hospital Psychiatric ward in August and October of 2014, shortly before Emilie's death, for depression, cutting, and other effects resulting from the bullying she suffered.

273. WITNESS 2 told her father that she was cutting herself because she hated school because of the bullying she was receiving there, and that the bullying made her hate herself.

274. WITNESS 2's father informed FMS about WITNESS 2's admission to Cincinnati Children's Hospital Psychiatric Ward.

275. However, no one from the school contacted him about WITNESS 2 regarding how she was doing, what school work she was missing or how to make it up, or when she would return to school.

276. No one from the school provided WITNESS 2 or her father a list of the school work that WITNESS 2 had missed or copies of assignments or reading she had missed while she was in the hospital.

277. In the fall of 2014, following WITNESS 2's release from the psychiatric ward, and before Emilie Olsen's death, WITNESS 2's father went to FMS and met with Defendant Rice concerning the bullying of WITNESS 2.

278. WITNESS 2's father had a lengthy conversation with Mr. Rice, detailing the bullying that WITNESS 2 had suffered at Fairfield.

279. WITNESS 2's father informed Mr. Rice that WITNESS 2 had even spent time in the psychiatric ward because of the bullying she had suffered at Fairfield.

280. Also present at the meeting were Officer Kinkade and the Guidance Counselor.

281. At the meeting, WITNESS 2's father specifically asked Mr. Rice to review the school surveillance cameras and find out who was involved with bullying WITNESS 2. Mr. Rice refused to do so.

282. Upon information and belief, no Fairfield official conducted any investigation into the bullying of WITNESS 2, or took any action to discipline those involved.

283. When WITNESS 2 returned to school after her hospital admissions, the bullying continued. WITNESS 2 reported the bullying to her first period teacher, Ms. Mosaic.

284. Ms. Mosaic agreed to stand outside the classroom door and observe WITNESS 2 walk from her first period classroom to her second period classroom, to

ensure there would be no bullying; however, upon information and belief, neither Ms. Mosaic nor any other school official took further action regarding the bullying.

285. Also, after WITNESS 2's return to school following her hospital admissions, a private therapist hired by WITNESS 2's family would go to Fairfield Middle School every Monday to check on WITNESS 2 and see how she was doing.

286. The therapist would pull WITNESS 2 out of class to talk to her, with the school's knowledge. Still, Defendants took no action to stop the bullying or help WITNESS 2 with the effects of the bullying.

287. To the contrary, the School informed WITNESS 2's family that it did not like WITNESS 2 seeing a counselor during school hours.

288. After Emile Olsen's death, WITNESS 2's father went to Fairfield again and reported to Mr. Rice that WITNESS 2 was being bullied by MINOR STUDENT 6.

289. WITNESS 2 also went to Mr. Rice and filled out an incident report stating that she was being bullied by MINOR STUDENT 6.

290. No one at the school offered WITNESS 2 any suggestions on how to handle the bullying. They provided her no information about bullying. They did not offer her counseling to deal with the bullying.

291. No one from the school followed up with her at any point thereafter regarding any steps the school is taking to investigate or otherwise deal with the bullying.

292. Following Emilie Olsen's death, a Fairfield student sent WITNESS 2 online messages stating, "I hope you die just like [Emilie Olsen]," and "I hope I find Emilie Grace's grave and take her body and hang it on her doorstep," and "I hope Emilie Olsen died sooner. I hope my nigger ass cum in her mouth and gave her aids bitch."

WITNESS 3

293. WITNESS 3 was a Caucasian male classmate of Emilie Olsen at Fairfield Intermediate School and at Fairfield Middle School.

294. WITNESS 3 was bullied by students at Fairfield Intermediate School and Fairfield Middle School.

295. On a regular basis, other students would call him “gay” and say he liked boys, ridicule him for having a high voice and walking in an effeminate manner, and throw food at him in the cafeteria.

296. WITNESS 3 and his mother met with Principal Butts at Fairfield Middle School and reported the bullying.

297. Principal Butts accused WITNESS 3 of lying, and told WITNESS 3 and his mother that he did not want to add the bullying of WITNESS 3 to his already-long list of everyday problems at the school.

298. WITNESS 3 also submitted written anti-bullying reports to Mr. Butts, and to counselors Erica Greene and Yvonne Smith regarding the bullying he suffered in school.

299. Neither Principal Butts nor any other Fairfield official investigated the bullying of WITNESS 3 or took effective action to identify and discipline those responsible.

300. WITNESS 3 was also the target of online bullying. A female Fairfield student sent him repeated online messages calling him “gay” and making fun of him for his perceived homosexual orientation.

301. WITNESS 3 submitted a written report/complaint about the online bullying to the Fairfield Intermediate School. He also personally showed the Fairfield fifth grade principal screen shots of the online messages.

302. The student who sent the online messages was not disciplined, and was not separated from WITNESS 3 at the school.

303. The school refused to inform WITNESS 3's parents regarding whether the female student had received any consequences for her actions, or whether the school would take any action to end the bullying, investigate other students who were bullying WITNESS 3, or protect WITNESS 3 in any way.

304. WITNESS 3 was a member of Fairfield's select choir program.

305. During his time a choir member, he was harassed by a Mr. Clark, the program director.

306. Mr. Clark accused WITNESS 3 of having hair that was too long and implied it was too effeminate. He insisted WITNESS 3 cut his hair before a choir performance, handing WITNESS 3 a pair of scissors and demanding that WITNESS 3 "cut it or go home."

307. Humiliated, WITNESS 3 went into the restroom and cut his hair with the scissors so that he would not have to go home.

308. Nevertheless, WITNESS 3 was still suspended from the choir and his grades declined immediately after this incident.

309. Because of the bullying he endured at Fairfield, WITNESS 3 suffered depression, anxiety, and severe emotional distress for which he required and received psychological counseling.

310. As a result of the bullying and Defendants' refusal to take any responsive action, WITNESS 3's mother withdrew him from Fairfield and enrolled him at a different school.

WITNESS 4

311. WITNESS 4 is a female Asian-American eighth grade student at Fairfield Middle School. She was a classmate and friend of Emilie Olsen.

312. Both WITNESS 4 and Emilie were in the seventh grade at Fairfield Middle School when Emilie committed suicide.

313. WITNESS 4 has experienced bullying at Fairfield Middle School due to her race and/or nationality.

314. On or about October 5, 2015, during her eighth grade at FMS, WITNESS 4 was physically battered during gym class by fellow student, MINOR STUDENT 4 (who also bullied Emilie Olsen).

315. During a game of hockey in gym class, WITNESS 3 was running down the court when MINOR STUDENT 4 stuck out his hockey stick and intentionally tripped WITNESS 4.

316. WITNESS 4 fell to the floor and struck her head.

317. WITNESS 4 has no memory of the ensuing few minutes.

318. The varsity assistant football coach and eighth grade basketball coach, Mr. Davis, who was supervising gym class, did not evaluate WITNESS 4 for concussion symptoms and did not take any corrective disciplinary action in regard to MINOR STUDENT 4.

319. When WITNESS 4's parents learned of the incident, they took her to be evaluated by a medical doctor. The doctor determined that WITNESS 4 had suffered a mild concussion.

320. After the incident, MINOR STUDENT 4 bragged that he tripped WITNESS 4 on purpose because she is Asian.

321. After WITNESS 4's father contacted the school about the incident, FMS officials told WITNESS 4's father that they had reviewed a surveillance camera from the gym class, and that they would take no further action.

322. It was only after continued pressure from WITNESS 4's father, and the assistance of several Fairfield students who came forward and informed the eighth grade principal, Mrs. Ernst, that MINOR STUDENT 4 had continued to brag about tripping WITNESS 4 on purpose, that Mrs. Ernst and the School Resource Officer agreed to review the surveillance video a second time.

323. This time, Defendants concluded that the tripping was intentional. Whether the school will take disciplinary action against MINOR STUDENT 4 remains to be seen. Upon information and belief, Defendants have taken no action against MINOR STUDENT 4 to date.

324. The school's initial response in failing to properly evaluate WITNESS 4 for signs and symptoms of a concussion or other injuries, failing to investigate the tripping despite the school's knowledge of MINOR STUDENT 4's history of bullying at the school, and failing to respond appropriately to WITNESS 4's father's complaints about the racially motivated and intentional battery on his daughter during school hours and on school property, is indicative of Fairfield's continued pattern and practice of gross

negligence in responding to incidents of bullying, battery, and racially based harassment.

Size and Scope of the Bullying Problem at Fairfield Schools

325. Defendants' pattern and practice of failing to properly respond to incidents of bullying and failing to stem the tide of bullying is also evident from the size and scope of reported bullying incidents at Fairfield Schools.

326. In accordance with Ohio law and the District's policy, Defendants are required to prepare a report for the Board's President on the "number of recorded bullying incidents."

327. According to a report created by Defendants, during the period of August 22, 2012 through December 31, 2012, there were 82 incidents of hazing and/or bullying reported. Of those reported, 7 were confirmed reports of bullying.

328. According to a report created by Defendants, during the period January 1, 2013 through June 30, 2013, there were 41 incidents of hazing and/or bullying reported. Of those reported, 14 were confirmed reports of bullying.

329. According to a report created by Defendants, during the period August 22, 2013 through December 31, 2013, there were 36 incidents of hazing and/or bullying reported. Of those reported, 14 were confirmed reports of bullying.

330. Of those 14 confirmed reports, 10 were confirmed reports from the Fairfield Intermediate School during Emilie's sixth grade year, involving "8 different students, repeat offenses."

331. According to a report created by Defendants, during the period January 1, 2014 through June 4, 2014, there were 26 incidents of hazing and/or bullying reported. Of those reported, 13 were confirmed reports of bullying.

332. According to a report created by Defendants, during the period “August 2014 and December 2014,” there were 44 incidents of hazing and/or bullying reported. Of those reported, 17 were confirmed reports of bullying.

333. For the period August 2012 through December 2014, there were 16 incident reports filed by the Fairfield Police Department against Fairfield students as a result of incidents involving students at the Fairfield Schools.

Defendants Continuing Disregard for and Disrespect of Emilie Olsen and Other Victims of Bullying and Discrimination

334. Despite the tragic death of Emilie Olsen, the attempted suicides of WITNESS 1 and WITNESS 2, and Defendants’ knowledge of persistent bullying, discrimination and other misconduct in their schools, Defendants continue to demonstrate a disregard for and disrespect of Emilie Olsen and other victims of bullying and discrimination.

335. As recently as the week of November 30, 2015, Defendant Lincoln Butts presided over an administrative meeting of Fairfield Middle School officials and employees to discuss issues including the upcoming memorial service for Emilie Olsen scheduled for December 11, 2014, marking the one-year anniversary of her death.

336. At said meeting, Defendant Butts played the song “Another One Bites the Dust” by “Queen” in a callous and blatant exhibition of disrespect for Emilie Olsen and her friends and family.

COUNT I

**Violation of U.S. Constitution Amendment XIV
Substantive Due Process**

[Against All Defendants Excluding MINOR STUDENTS 1-8, and John/Jane Does 1-10]

337. Plaintiffs reassert the foregoing as if fully rewritten herein.

338. The actions of all Defendants constitute a violation of Emilie Olsen's and Plaintiffs' constitutional rights under the Substantive Due Process Clause of the Fourteenth Amendment.

339. These rights include Emilie's right to life, liberty, familial relationship, education, and freedom from government actions that shock the conscience, as well as the right of Marc and Cindy Olsen to the familial relationship, companionship, care, custody and management of their child, including the right to control her education.

340. Defendants had actual knowledge that the bullying, harassment, assault/battery, and discrimination Emilie suffered was so severe that it deprived Emilie of the rights, privileges, or immunities secured by the Substantive Due Process Clause of the Fourteenth Amendment.

341. Defendants had sufficient time to deliberate and decide upon a proper course of action to the bullying and other wrongs suffered by Emilie. Defendants were not required to act in haste.

342. Defendants' actions and omissions, in failing to intervene on behalf of Emilie Olsen, were so reprehensible that it is shocking to the conscience and violative of Emilie's substantive due process rights and those of Plaintiffs.

343. The practices, policies, or customs of Defendants for responding to such bullying, harassment, assault/battery, and discrimination were so clearly unreasonable in light of known circumstances as to give rise to a reasonable inference that each of the Defendants intended for these events to occur, or were deliberately and callously indifferent to their occurrence, or were grossly negligent or reckless in permitting them to occur.

344. The affirmative acts and the omissions of the Defendants created a risk and/or increased the risk that Emilie Olsen would be exposed to bullying, harassment, assault/battery, and discrimination by other Fairfield students including without limitation MINOR STUDENTS 1-17.

345. Because Emilie faced special and specific dangers of being bullied, harassed, assaulted/battered, and discriminated against by Fairfield students (particularly MINOR STUDENTS 1-17), Defendants actions and omissions created a risk and/or placed Emilie specifically at risk.

346. Defendants knew or should have known that their actions and omissions created a danger and/or specifically endangered Emilie Olsen, including without limitation:

- a. the repeated decisions of Defendants to hide information from the Olsens about the bullying, harassment and batteries against Emilie, including the school's knowledge that MINOR STUDENT 1 had told Emilie to go kill herself in October 2014;
- b. their repeated failure to complete reports regarding the bullying of Emilie;
- c. their repeated refusals to investigate or discipline Emilie's bullies, or at least separate Emilie from the bullies and protect her from them, despite knowledge of the bullies' identities, despite requests from the Olsens that Emilie be separated from the bullies, and despite Defendants' knowledge that any remedial action they had taken was ineffective; and
- d. their failure to respond to the derogatory messages about Emilie online and in the bathrooms.

347. The practices, policies, or customs of Defendants have substantially contributed to and exacerbated an environment in which it was customary for students such as Emilie Olsen, and WITNESS 1, WITNESS 2, WITNESS 3, and WITNESS 4 to be bullied, harassed, assaulted/battered, and discriminated against.

348. Even when students reported the bullying, asked for help, became desperate and attempted suicide, Defendants persisted in their custom of failing to take effective action, thereby acquiescing in the wrongful conduct.

349. Defendants also:

(a) failed to enforce Defendants' anti-bullying, anti-harassment, and anti-discrimination policies;

(b) failed to adequately train and/or negligently trained School District staff regarding said those policies, and about proper methods of responding to such events;

(c) failed to properly oversee, supervise, and discipline staff in carrying out their duties under these policies; and

(d) failed to adopt, and/or implement adequate policies and procedures regarding bullying, harassment, assault/battery, sexual and racial/national origin discrimination necessary to prevent the constitutional violations suffered by Emilie Olsen.

350. Defendants' actions and omissions reflect their toleration of a widespread policy, practice or custom of failing to adequately respond to bullying, harassment and assault/battery so as to safeguard the constitutionally protected rights of students.

351. This policy, practice or custom condoned, fostered, encouraged, and tacitly approved of the unconstitutional response and lack of response of Defendants to bullying, harassment, and assault/battery taking place in Fairfield Schools, and directly and proximately caused the violation of Emilie's constitutional rights.

352. As a result of Defendants' conduct, Plaintiffs have been damaged, including without limitation extreme emotional pain and suffering and loss of companionship of their daughter.

COUNT II

Violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. Discrimination on the Basis of National Origin

[Against the School Board and the School District]

353. Plaintiffs incorporate by reference all preceding paragraphs.

354. Upon information and belief, the School District, the School Board, FIS, and FMS are recipients of federal financial assistance.

355. The acts and omissions Defendants Fairfield City School District Board of Education and Fairfield City School District, which include acts and omissions of School District officials and employees, violated Emilie Olsen's rights under Title VI by discriminating against her on the basis of race (Asian) and/or national origin (Chinese).

356. Defendants had actual notice that bullying and harassment based on race and/or national origin was so severe, pervasive, and objectively offensive that it created a hostile climate based on race and/or national origin that deprived Emilie Olsen of access to educational programs, activities, and opportunities.

357. Defendants, including policymakers, officials and other School District employees, exhibited deliberate indifference to the bullying, harassment and discrimination against Emilie Olsen based on race and/or national origin in violation of Title VI.

358. Through their unlawful and intentional deliberate indifference, Defendants caused Emilie Olsen to be subjected to the above-described race and/or national origin discrimination.

359. Defendants' violations of Title VI were the actual, direct, and proximate cause of injuries suffered by Emilie Olsen as alleged.

360. Plaintiffs request judgment in their favor against Defendants as set forth below.

COUNT III

**Violation of Title IX of the Civil Rights Act of 1964, 20 U.S.C. § 1681
Sex Discrimination**

[Against the School Board and the School District]

361. Plaintiffs reassert the foregoing as if fully rewritten herein.

362. Emilie Olsen suffered harassment on the basis of her gender, her perceived sexual orientation, and her perceived sexual practices/promiscuity, while attending Fairfield Intermediate School and Fairfield Middle School.

363. The harassment was so severe, pervasive, and objectively offensive that it deprived her of access to the educational opportunities or benefits provided by the schools.

364. This harassment was reported to Defendants and Defendants had actual knowledge of the harassment.

365. Defendants' response to these reports was deliberately indifferent in that it was clearly unreasonable in light of the known circumstances.

366. Furthermore, Defendants knew or should have known that any actions it had taken in response to the harassment were inadequate and ineffective.

367. Defendants also failed to notify Defendant JOHN/JANE DOE 21, the Fairfield City School District Title IX coordinator/administrator, of the harassment and discrimination Emilie suffered on the basis of sex, and failed to conduct an investigation into this conduct.

368. Defendants thus violated Emilie Olsen's right to be free from discrimination on the basis of sex in federally funded education programs and activities in violation of Title IX, 20 U.S.C. Section 1681.

369. As a direct and proximate result of the actions and conduct of Defendants, Emilie Olsen suffered further harassment and was made vulnerable to further harassment on the basis of sex, and was deprived of her access to the educational opportunities and benefits that the school provided.

370. As a direct and proximate result of the actions and conduct of Defendants, Plaintiffs have suffered and continue to suffer extreme emotional distress and loss of the care and companionship of Emilie.

COUNT IV

Unlawful Policy, Practice, or Custom in Failing to Respond to Bullying, Harassment, and Assault/Battery (*Monell v. Dept. of Social Services*, 436 U.S. 658 (1978))

[Against All Defendants Excluding MINOR STUDENTS 1-8, and John/Jane Does 1-10]

371. Plaintiffs reassert the foregoing as if fully rewritten herein.

372. Defendants violated their obligations to maintain lawful policies and procedures pursuant to *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978), and also pursuant to R.C. § 2307.44, § 3313.666(B), and § 3313.534.

373. Defendants' actions and omissions reflect their toleration of a widespread policy, practice or custom of failing to adequately respond and/or negligently responding to bullying, harassment and assault/battery so as to safeguard the constitutionally protected rights of students.

374. This policy, practice or custom condoned, fostered, encouraged, acquiesced in and tacitly approved of the unconstitutional response, and lack of response, of Defendants to bullying, harassment, and assault/battery taking place in the Fairfield Intermediate and Middle Schools.

375. This policy, practice or custom was the moving force behind the violations of Emilie's constitutional and federally protected rights.

376. Defendants were deliberately and callously indifferent, or grossly negligent or reckless with regard to this deprivation of Emilie's constitutional and federally protected rights.

377. Defendants' unlawful policy, practice or custom was also evident by their deliberate indifference in:

- a. the actions taken by officials with final decision-making authority, including without limitation;
 - i. the repeated decisions of Defendants to hide information from the Olsens about the bullying, harassment and batteries against Emilie, including the school's knowledge that MINOR STUDENT 1 had told Emilie to go kill herself in October 2014;
 - ii. their repeated failure to complete reports regarding the bullying of Emilie; and
 - iii. their repeated refusals to investigate or discipline Emilie's bullies, or at least separate Emilie from the bullies and protect her from them, despite knowledge of the bullies' identities, despite requests from the Olsens that Emilie be separated from the bullies, and despite Defendants' knowledge that any remedial action they had taken was ineffective; and
 - iv. their failure to respond to the derogatory messages about Emilie online and in the bathrooms.
- b. failing to properly train, oversee, supervise, and discipline their officials and teachers in proper methods of responding to bullying, harassment, and assault/battery, and/or negligently performing these responsibilities.
- c. The training and supervision was obviously and clearly inadequate and/or negligent, especially given the conduct of administrators and teachers described in the Complaint, including without limitation:
 - i. their failure to report incidents of bullying, harassment and assault/battery to their superiors or complete reports on the same;

- ii. their failure to communicate with each other and comprehend that Emilie's falling grades and out-of-character behavior was related to the bullying she was suffering;
 - iii. Tim Lewis's screaming at and berating of Emilie for not having friends and for her falling grades, despite the school's knowledge of Emilie's bullying problems;
 - iv. Erica Green's failure to offer Emilie counseling and/or adequate counseling;
 - v. the failure of the school to offer Emilie counseling and/or take interventionist measures after seeing she was eating alone in the lunchroom;
 - vi. the failure of teachers to detect and report bullying of Emilie by MINOR STUDENT 2 happening in the classroom;
 - vii. the failure of Principal Butts to personally intervene and end the bullying despite direct knowledge of the bullying and batteries against Emilie.
- d. failing to follow their own anti-bullying policies, as described above,
 - e. failing to maintain, adopt, and/or implement policies and procedures regarding bullying, harassment and assault/battery necessary to prevent the constitutional violations suffered by Emilie Olsen;
 - f. failing to maintain files on bullies/harassers, and the failure to institute a tracking system for bullying, harassment, and assault/battery incidents.

378. Defendants' conduct was also part of a pattern and practice in which Defendants failed to protect Fairfield students from bullying, harassment, and assault/battery, as evidenced by Defendants' failure to protect WITNESS 1, WITNESS 2, WITNESS 3, WITNESS 4, and other students, and as evidenced by the high number of bullying complaints at the schools and the repeated occasions on which the police were called to the schools to intervene and/or occasions on which incident reports were filed

by the Fairfield Police Department against Fairfield students as a result of incidents at the Fairfield Schools.

379. Before Emilie's death, Defendants were clearly on notice, and knew or should have known of their own prior constitutional violations as well as those of other Fairfield City School District employees, including without limitation the failure to protect Emilie Olsen, WITNESS 1, WITNESS 2, and WITNESS 3 from bullying, harassment and assault/battery, and the consequent harm suffered by those students, including the attempts at suicide and self-harm by WITNESS 1 and WITNESS 2.

380. Defendants were deliberately indifferent, and knew or should have known that these violations reflected the toleration of a widespread policy, practice or custom of failing to adequately respond to bullying, harassment and assault/battery so as to safeguard the constitutionally protected rights of students, the failure to adopt and/or implement adequate policies, and deficient/negligent training, oversight, supervision, and discipline.

381. Defendants were deliberately indifferent, and knew or should have known that these actions and omissions were likely to cause injury to students, and actually caused injury to students including Emilie Olsen and WITNESSES 1-4.

382. As a direct and proximate result of the conduct of Defendants, Emilie Olsen and Plaintiffs have suffered the deprivation of their constitutional rights, and Plaintiffs have suffered extreme emotional distress and loss of companionship.

COUNT V

**Unlawful Policy, Practice, or Custom in Failing to Respond to Sexual
Discrimination
(*Monell v. Dept. of Social Services*, 436 U.S. 658 (1978))**

[Against All Defendants Excluding MINOR STUDENTS 1-8, and John/Jane Does 1-10]

383. Plaintiffs reassert the foregoing, as if fully rewritten herein.

384. Defendants violated their obligations to maintain lawful policies and procedures pursuant to *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978), and also pursuant to R.C. § 2307.44, § 3313.666(B), and § 3313.534.

385. Defendants' conduct, described throughout the Complaint, reflects their toleration of a widespread policy, practice or custom of failing to adequately respond to sexual discrimination and harassment so as to safeguard the constitutionally protected rights of students.

386. This policy, practice or custom condoned, fostered, encouraged, acquiesced in and tacitly approved of the unconstitutional response, and lack of response, of Defendants to sexual discrimination and harassment taking place in FIS and FMS.

387. This policy, practice or custom was the moving force behind the violations of Emilie's constitutional and federally protected rights.

388. Defendants were deliberately and callously indifferent, or grossly negligent or reckless with regard to this deprivation of Emilie's constitutional and federally protected rights.

389. Defendants' unlawful policy, practice or custom was also evident by their deliberate indifference in:

(a) the actions taken by officials with final decision-making authority;

(b) failing to properly train, oversee, supervise, and discipline their officials and teachers in proper methods of responding to sexual discrimination and harassment, and/or negligently performing these responsibilities;

(c) failing to follow their own sexual harassment policies;

(d) failing to maintain, adopt, and/or implement policies and procedures regarding sexual discrimination and harassment necessary to prevent the constitutional violations suffered by Emilie Olsen;

(e) failing to maintain files on discriminators/harassers, and the failing to institute a tracking system for such incidents.

390. Defendants' actions and omissions were also part of a pattern and practice in which Defendants failed to protect Fairfield students from bullying, harassment and discrimination on the basis of sex, as evidenced by Defendants' failure to protect WITNESS 1, WITNESS 2, and other students.

391. Before Emilie's death, Defendants were clearly on notice, and knew or should have known of prior constitutional violations, including without limitation the failure to protect Emilie Olsen, WITNESS 1, WITNESS 2, and WITNESS 3 from sexual discrimination, and the attempts at suicide and self-harm by WITNESS 1 and WITNESS 2.

392. Defendants knew or should have known that these violations reflected the toleration of a widespread policy, practice or custom of failing to adequately respond to sexual discrimination so as to safeguard the constitutionally protected rights of students, the failure to adopt and/or implement adequate policies, and deficient/negligent training, oversight, supervision, and discipline.

393. Defendants knew or should have known that these actions and omissions were likely to cause injury to students, and actually caused injury to students including Emilie Olsen and WITNESS 1 and WITNESS 2.

394. As a direct and proximate result of the actions and conduct of Defendants, Emilie Olsen and Plaintiffs have suffered the deprivation of their constitutional rights, and Plaintiffs have suffered extreme emotional distress and loss of companionship.

COUNT VI

**Unlawful Policy, Practice, or Custom in Failing to Respond to
Race/National Origin Discrimination
(*Monell v. Dept. of Social Services*, 436 U.S. 658 (1978))**

**[Against All Defendants Excluding MINOR STUDENTS 1-8, and John/Jane
Does 1-10]**

395. Plaintiffs reassert the foregoing as if fully rewritten herein.

396. Defendants violated their obligations to maintain lawful policies and procedures pursuant to *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978), and also pursuant to R.C. § 2307.44, § 3313.666(B), and § 3313.534.

397. Defendants' conduct, described throughout the Complaint, reflects their toleration of a widespread policy, practice or custom of failing to adequately respond to race/national origin discrimination so as to safeguard the constitutionally protected rights of students.

398. This policy, practice or custom condoned, fostered, encouraged, acquiesced in and tacitly approved of the unconstitutional response, and lack of response, of Defendants to race/national origin discrimination taking place in FIS and FMS.

399. This policy, practice or custom was the moving force behind the violations of Emilie's constitutional and federally protected rights.

400. Defendants were deliberately and callously indifferent, or grossly negligent or reckless with regard to this deprivation of Emilie's constitutional and federally protected rights.

401. Defendants' unlawful policy, practice or custom was also evident by their deliberate indifference in:

(a) the actions taken by officials with final decision-making authority;

(b) failing to properly train, oversee, supervise, and discipline their officials and teachers in proper methods of responding to race/national origin discrimination, and/or negligently performing these responsibilities;

(c) failing to follow their own race/national origin discrimination policies;

(d) failing to maintain, adopt, and/or implement policies and procedures regarding race/national origin discrimination and harassment necessary to prevent the constitutional violations suffered by Emilie Olsen;

(e) failing to maintain files on discriminators/harassers, and the failing to institute a tracking system for such incidents.

402. Defendants' actions and omissions were also part of a pattern and practice in which Defendants failed to protect Fairfield students from race/national origin discrimination, as evidenced by Defendants' failure to protect WITNESS 1, WITNESS 2, and WITNESS 4.

403. Before Emilie's death, Defendants were clearly on notice, and knew or should have known of prior constitutional violations, including without limitation the failure to protect Emilie Olsen, WITNESS 1, and WITNESS 2, from race/national origin discrimination, and the attempts at suicide and self-harm by WITNESS 1 and WITNESS 2.

404. Defendants knew or should have known that these violations reflected the toleration of a widespread policy, practice or custom of failing to adequately respond to

race/national origin discrimination so as to safeguard the constitutionally protected rights of students, the failure to adopt and/or implement adequate policies, and deficient/negligent training, oversight, supervision, and discipline.

405. Defendants knew or should have known that these actions and omissions were likely to cause injury to students, and actually caused injury to students including Emilie Olsen and WITNESS 2 and WITNESS 4.

406. As a direct and proximate result of the actions and conduct of Defendants, Emilie Olsen and Plaintiffs have suffered the deprivation of their constitutional rights, and Plaintiffs have suffered extreme emotional distress and loss of companionship.

COUNT VII

Violation of U.S. Constitution Amendment XIV, Denial of Equal Protection on the Basis of Race and/or National Origin

[Against All Defendants Excluding MINOR STUDENTS 1-8, and John/Jane Does 1-10]

407. Plaintiffs reassert the foregoing as if fully rewritten herein.

408. The Defendants, acting under color of state law, have deprived Emilie Olsen of the rights, privileges, or immunities secured by the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, in that Defendants, without justification, have intentionally discriminated against Emilie Olsen on the basis of her race and/or national origin.

409. Defendants had actual and/or constructive knowledge that bullying, harassment and discrimination based on race and/or national origin was so severe, pervasive, and objectively offensive that it created a hostile climate that deprived Emilie Olsen of access to educational programs, activities, and opportunities.

410. The practices, policies, or customs of Defendants and their policymakers for responding to such bullying, discrimination and harassment based on race and/or national origin were so clearly unreasonable in light of the known circumstances as to give rise to a reasonable inference that each of the Defendants named in this claim intended for the bullying, discrimination and harassment to occur.

411. The practices, policies, or customs of the Defendants and their policymakers for responding to such bullying, discrimination and harassment based on race and/or national origin substantially contributed to a continuing, widespread, and persistent pattern of misconduct in responding to and/or failing to respond to such acts.

412. The practices, policies, or customs of the Defendants and their policymakers have substantially contributed to the creation of a pervasive anti-Asian and/or anti-Chinese climate in the District and exacerbated the epidemic of anti-Asian and/or anti-Chinese harassment in District schools.

413. Defendants also failed to adequately train and/or negligently trained School District staff about policies prohibiting bullying, harassment and discrimination on the basis of race and/or national origin, as specified throughout the Complaint.

414. These Defendants' failure to train and/or negligent training caused Emilie Olsen to be subjected to bullying, discrimination and harassment on the basis of race and/or national origin.

415. Defendants Otten, Butts, Madden, Rice, Cline, Muller, Wasmer, as officials with supervisory responsibilities, also implicitly authorized, approved of, or knowingly acquiesced in the unconstitutional conduct of subordinates in failing to properly respond to bullying, harassment and discrimination on the basis of race and/or national

origin directed against Emilie Olsen, and thereby acted with deliberate indifference to the violation of Emilie's rights.

416. The violations of Emilie Olsen's rights under the Fourteenth Amendment by each of the Defendants named in this claim were the actual, direct, and proximate cause of injuries suffered by Emilie Olsen and Plaintiffs as alleged.

417. Plaintiffs request judgment in their favor against each of the Defendants named in this claim, as set forth below.

COUNT VIII

Negligence / Gross Negligence [Against All Defendants]

418. Plaintiffs reassert the foregoing as if fully rewritten herein.

419. The actions of all Defendants, including MINOR STUDENTS 1 through and including 8, as enumerated above, in: (a) bullying, harassing, assaulting, battering and discriminating against Emilie Olsen; and in (b) failing to properly respond to the bullying, assault/battery, harassment, and discrimination against Emilie, despite their actual and constructive knowledge of these events, and their directly witnessing physical, verbal and other forms of bullying and abuse against Emilie, constitute negligence, recklessness, and/or gross negligence under Ohio law.

420. The Defendants' negligence, recklessness, and gross negligence includes without limitation: failing to follow federal and Ohio law; failing to follow their own anti-bullying policies, as specified above; failing to investigate and end the bullying; failing to identify and discipline the bullies of Emilie; failing to report bullying incidents to the school administration; and failing to inform the Olsens about bullying incidents within the school's knowledge.

421. The Defendants' negligence, recklessness, and gross negligence includes without limitation their failure to create and implement policies necessary for the government of their schools and pupils, as required by R.C. § 3313.20.

422. Defendants' recklessness and gross negligence also includes its violations of Ohio's Anti-Bullying statute, Ohio Revised Code § 3313.666. These violations include without limitation: (a) failure to document incidents of bullying and harassment against Emilie in writing and notify the Olsens of the incidents; (b) failure to use intervention strategies for protecting Emilie from additional bullying, harassment or retaliation; (c) failure to use interventions or disciplinary procedures for the bullies/harassers of Emilie.

423. Defendant Erica Green's negligence, recklessness, and gross negligence includes her failure to offer counseling and/or adequate counseling to Emilie Olsen despite requests for counseling from Marc and Cindy Olsen and despite her knowledge of the bullying and other wrongs suffered by Emilie, including her knowledge that a Fairfield student/students had told Emilie to go kill herself.

424. Defendants Green and Mark Rice were also reckless and grossly negligent in failing to report the cafeteria dispute and the "go kill yourself" statement, made by MINOR STUDENT 1, to Marc and Cindy Olsen.

425. The actions of all Defendants constitute malicious purpose, bad faith and wanton and reckless conduct in violation of Ohio Revised Code Section 2744.03(A)(6).

426. As a direct result of the actions and conduct of Defendants, Plaintiffs have been damaged including extreme emotional distress and loss of companionship of Emilie.

COUNT IX

**Wrongful Death
[Against All Defendants]**

427. Plaintiffs reassert the foregoing as if fully rewritten herein.

428. Plaintiffs Marc and Cindy Olsen bring this wrongful death claim as co-administrators of the Estate of Emilie Olsen for the exclusive benefit of themselves as parents of Emilie, and as parents and next friends of C.O., the minor sister of Emilie.

429. The gross negligence and neglect, and other actions and omissions of Defendants described herein, including those of MINOR STUDENTS 1 through and including 8, directly and proximately caused the death of Emilie Olsen, and would have entitled Emilie to maintain an action against Defendants and recover damages if her death had not ensued.

430. Emilie left no surviving spouse and is survived by her parents, Marc and Cindy Olsen, and her minor sister C.O., all of whom are the beneficiaries of this action.

431. Plaintiffs Marc and Cindy Olsen, and C.O., have suffered damages as a result of Defendants' negligence and neglect, including without limitation: loss of services, loss of society including loss of companionship, care, assistance, and attention, mental anguish, and funeral and burial expenses.

COUNT X

Breach of Duty of Care and Supervision

[Against All Defendants Excluding MINOR STUDENTS 1-8, and John/Jane Does 1-10]

432. Plaintiffs reassert the foregoing as if fully rewritten herein.

433. Emilie Olsen was at all relevant times under the care, custody, control and supervision of Defendants, and was in fact compelled by the laws of the State of Ohio to attend school and submit to the care, custody, and control of school authorities.

434. Defendants had a duty to care for, protect, supervise, support and control their students; to exercise a duty of reasonable care *in loco parentis*; and to avoid creating a substantial risk to the health or safety of their students either by action or omission.

435. The foregoing duties are established by the common law of Ohio, as well as by Ohio R.C. §§ 2151.03, 2919.22, 3313.20, 3313.666, 2307.44, 3313.666(B), 2151.421, and 3313.534.

436. Defendants also entered into a special relationship, and assumed a heightened duty of care by promising and agreeing, with Emilie and the Olsens that they would exercise added vigilance over Emilie, ensure that she was protected, and offer her support, guidance, and counseling.

437. The actions of Defendants, as enumerated in this Complaint, constitute a violation of the aforementioned duties.

438. The actions and omissions of all Defendants constitute malicious purpose, bad faith and wanton and reckless conduct in violation of Ohio Revised Code Section 2744.03(A)(6).

439. As a direct result of the actions and conduct of Defendants, Plaintiffs have been damaged including extreme emotional distress and loss of companionship of Emilie.

COUNT XI

**Intentional Infliction of Emotional Distress
[Against All Defendants]**

440. Plaintiffs reassert the foregoing as if fully rewritten herein.

441. Defendants either intended to cause emotional distress to Emilie Olsen and Plaintiffs, or knew or should have known that their actions and omissions would result in serious emotional distress to Emilie Olsen and Plaintiffs.

442. Defendants' actions and omissions in failing to take appropriate action against the bullies of Emilie, and the actions of Defendant MINOR STUDENTS 1 through and including 8, in bullying, harassing, assaulting/battering, and discriminating against Emilie, were extreme and outrageous.

443. Defendants' actions and omissions directly and proximately caused extreme emotional distress and mental/psychological/emotional harm to Emilie Olsen, Marc and Cindy Olsen, and C.O.

444. As a direct and proximate result of Defendants' actions and omissions, Emilie Olsen required extensive medical counseling and treatment prior to her death, and Marc and Cindy Olsen, and C.O., have required extensive medical counseling and treatment following Emilie's death due to the loss of their daughter and sister and the ongoing public scrutiny of her death.

445. As a direct and proximate result of Defendants' conduct Plaintiffs have been damaged.

COUNT XII

Negligent Infliction of Emotional Distress

[Against All Defendants]

446. Plaintiffs reassert the foregoing as if fully rewritten herein.

447. Defendants' actions and omissions in failing to take appropriate action against the bullies of Emilie, and the actions of MINOR STUDENTS 1 through and including 8, and other bullies, in bullying, harassing, assaulting/battering, and discriminating against Emilie, directly, proximately and foreseeably led to Emilie's death, and thereby caused mental anguish to Plaintiffs, requiring Marc and Cindy Olsen, and C.O., to undergo extensive counseling and medical treatment.

448. Plaintiffs also discovered and observed Emilie's body on the day of her death, resulting in shock from the direct emotional impact of this discovery and observation.

449. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs have been damaged.

COUNT XIII

**Violation of R.C. § 2307.44
Hazing / Bullying**

[Against All Defendants Excluding MINOR STUDENTS 1-8, and John/Jane Does 1-10]

450. Plaintiffs reassert the foregoing as if fully rewritten herein.

451. Emilie Olsen was subjected to hazing, bullying, intimidation and harassment as a student in the District during school hours and during school sanctioned events.

452. Defendants had a mandatory duty to create and enforce anti-bullying, anti-hazing, and anti-harassment standards pursuant to Ohio R.C. § 2307.44, § 3313.666(B), and § 3313.534.

453. Defendants failed to create and enforce such standards, as described above.

454. As a direct result of Defendants' actions and omissions, Emilie Olsen suffered mental and physical pain and suffering, and Plaintiffs suffered mental pain and suffering, and have thus been damaged.

COUNT XIV

Violation of R.C. § 2151.421 Failure to Report Child Abuse

[Against All Defendants Excluding MINOR STUDENTS 1-8, and John/Jane Does 1-10]

455. Plaintiffs reassert the foregoing as if fully rewritten herein.

456. Defendants, acting in an official or professional capacity, knew or had reasonable cause to suspect that Emilie suffered or faced a threat of suffering a physical or mental wound, injury, or disability, to wit: that Emilie had been physically assaulted/battered, bullied, harassed and discriminated against, that she was likely to physically harm herself and was a risk to commit suicide, among other things.

457. Pursuant to Ohio R.C. § 2151.421, Defendants had a duty to report that they knew or had reasonable cause to suspect that Emilie suffered or faced a threat of suffering a physical or mental wound, injury, or disability.

458. Defendants breached their duty when they failed to report as required by Ohio R.C. § 2151.421.

459. As a direct and proximate result of Defendants' actions and omissions, Emilie Olsen suffered mental and physical pain and suffering, and Plaintiffs suffered mental pain and suffering, and have thus been damaged.

COUNT XV

Breach of Express and/or Implied Contract

[Against All Defendants Excluding MINOR STUDENTS 1-8, and John/Jane Does 1-10]

460. Plaintiffs reassert the foregoing as if fully rewritten herein.

461. Plaintiffs Marc and Cindy Olsen enrolled Emilie Olsen as a student in the Fairfield City School District, and specifically at Fairfield Intermediate School and Fairfield Middle School.

462. Plaintiffs formed an agreement with Defendants for Emilie to attend these schools, and for these schools to educate, supervise and otherwise care for Emilie Olsen.

463. Upon information and belief, Plaintiffs signed various school documents and issued certain payments as part of the enrollment process, and/or throughout the course of the school year, agreeing among other things to Emilie's attendance.

464. The agreement was contractual in nature.

465. As part of the agreement, Plaintiffs paid fees, costs, property taxes, and other funds to Defendants.

466. Defendants published policies, protocols and procedures upon which Emilie relied for supervision, care, and protection.

467. Emilie fulfilled her obligations under the agreement by attending school, abiding by Defendants' policies, protocols and procedures, and by otherwise completing the work assigned to her.

468. Defendants breached and otherwise failed to fulfill their obligations under the agreement in several ways including without limitation:

(a) failing to protect Emilie from bullying, harassment, assault, battery and discrimination;

(b) failing to enforce Defendants' anti-bullying, anti-harassment, and anti-discrimination policies;

(c) failing to adequately train and/or negligently training School District staff regarding said those policies, and about proper methods of responding to such events;

(d) failing to properly oversee, supervise, and discipline staff in carrying out their duties under these policies; and

(e) failing to adopt, and/or implement adequate policies and procedures regarding bullying, harassment, assault/battery, sexual and racial/national origin discrimination necessary to prevent the constitutional violations suffered by Emilie Olsen.

469. Defendants' breach of the agreement directly and proximately damaged Emilie and Plaintiffs as alleged.

COUNT XVI

Assault and Battery

[Against MINOR STUDENTS 2, 4, 5, 6, and 7, and John/Jane Does 1-10]

470. Plaintiffs reassert the foregoing as if fully rewritten herein.

471. BULLIES 2, 4, 5, 6 and 7, and John/Jane Does 1-10, assaulted Emilie by willfully threatening or attempting to harm or touch Emilie Olsen offensively, which threat or attempt reasonably placed Emilie in fear of such contact.

472. BULLIES 2, 4, 5, 6 and 7, and John/Jane Does 1-10, battered Emilie by intentionally causing unconsented harmful or offensive contact with Emilie, to wit:

slapping her in the face, shoving her into lockers, slapping books out of her hands, tripping her, and knocking into her purposefully, among other incidents.

473. As a direct and proximate result of Defendants' actions, Emilie Olsen suffered mental and physical pain and suffering and ultimately committed suicide, and Plaintiffs have been damaged including mental and emotional pain and suffering.

COUNT XVII

Defamation / Defamation Per Se / Defamation Per Quod

[Against MINOR STUDENTS 2 and 8 and John/Jane Does 1-10]

474. Plaintiffs reassert the foregoing as if fully rewritten herein.

475. MINOR STUDENT 2, her friends, and JOHN/JANE DOES 1-10 created a fake Instagram account entitled "Emilie Olsen is Gay," which included the statement: "I'm Emilie I'm Gay and I love to Fuck random people in the woods and I love to chew tobacco and if U wanna Fuck just meet somewhere in the woods."

476. These Defendants thereby published these statements on the Internet and upon information and belief, showed them to others and invited others to view them.

477. JOHN/JANE DOES 1-10 also published vile and derogatory messages about Emilie Olsen on the walls of the bathrooms in the Fairfield schools, including without limitation the messages "Emilie is a ho," and "Emilie is a whore."

478. In approximately November 2014, a Facebook account or profile was created about Emilie and/or was used to bully and harass Emilie.

479. Upon information and belief, the account was created by and/or registered to MINOR STUDENT 8.

480. On or about November 30, 2104, MINOR STUDENT 8 bullied, sexually harassed, and made racially discriminatory remarks against Emilie using the Facebook account.

481. MINOR STUDENT 8 published/sent Facebook messages to Emilie such as “come suck me off,” “nobody wants to be your fucking friend,” “dumb bitch why you try and be friends with me,” “you never had a dick in your life shit,” “shut that ugly ass up bitch. All you need right now is a dick in your mouth,” “I’ll bend you over,” “nobody wants to touch your Ebola looking ass. Go back to Africa,” “you’re stupider than I thought,” “mud shark,” “you’re ugly,” “your pictures look so gay...get the fuck out of here you sad ass bitch,” “you get no dick,” “fuck you fat ass bitch,” and “where the fuck y’all rednecks live anyways, you’re too ugly to die.”

482. MINOR STUDENT 8 also suggested that people should have sex with Emilie as a form of exercise, saying “hey ride this [referring to Emilie] you will lose weight.”

483. The Facebook account or profile also made derogatory references to Emilie’s perceived sexual orientation and sexual practices, including but not limited to, the status of Emilie’s relationships with other FMS students.

484. Emilie was bullied and harassed by other Fairfield students when she became the target of the Facebook account or profile.

485. All of the foregoing statements published by Defendants were false in that Emilie Olsen was not gay and was not sexually active or promiscuous.

486. Defendants were negligent in publishing these statements and/or knew these statements were false and/or acted with reckless disregard for their truth or falsity.

487. These statements also constituted defamation per se in that they were defamatory on their face.

488. These statements also constituted defamation per quod in that they were defamatory through interpretation or innuendo.

489. These statements directly and proximately harmed Emilie's reputation, subjected her to scorn, ridicule, shame, contempt, and embarrassment, and engendered additional bullying and physical and verbal abuse against her.

490. As a direct and proximate result of the bullying she suffered during her seventh grade year at Fairfield Middle School, Emilie began to "cut" herself again or otherwise self-harm, suffer depression, and express self-hatred and suicidal thoughts and impulses.

491. As a direct and proximate result of Defendants' actions, Emilie Olsen and Plaintiffs suffered mental and emotional pain and suffering, requiring medical counseling and treatment, and Emilie Olsen ultimately committed suicide.

492. In committing this intentional tort of defamation, Defendants acted with actual malice and/or conscious disregard of Plaintiffs' rights, thus entitling Plaintiffs to punitive damages.

COUNT XVIII

Loss of Consortium

[Against All Defendants]

493. Plaintiffs reassert the foregoing as if fully rewritten herein.

494. Defendants negligently and intentionally caused injury to Emilie Olsen.

495. As a direct and proximate result of Defendants' actions and omissions, Plaintiffs Marc and Cindy Olsen and C.O. have suffered a loss of consortium including

loss of services, society, companionship, care, assistance, attention, affection, and assistance, and are thereby entitled to damages.

COUNT XIX

Trespass

[Against Defendants, School Board and Lincoln Butts]

496. Plaintiffs reassert the foregoing as if fully rewritten herein.

497. On or about December 16, 2014, Defendant Lincoln Butts, with the full knowledge and consent of the School Board, entered onto the property of Marc and Cindy Olsen unannounced, intentionally and without authorization, accompanied by two Fairfield Township police officers.

498. Marc and Cindy Olsen are the owners of said property and home.

499. Butts used the police officers as a show of force to gain entry to the Olsens' property and home, and to intimidate the Olsens. Butts and the officers gained entry to Marc Olsens' home without authorization and through the show of force, to wit: guns, badges, and their status as law enforcement officers.

500. Upon information and belief, the officers were taking their instructions from Butts and/or agreed with Butts to trespass on the Olsens' property and intimidate the Olsens.

501. Once inside the home, Butts threatened and attempted to intimidate Marc and Cindy Olsen.

502. Butts and the officers refused to leave the Olsens' property despite multiple demands from Marc Olsen that they leave immediately.

503. The conduct of Butts and the officers constitutes trespass.

504. As a direct and proximate result of Butts' conduct and the conduct of the officers under his direction, Marc and Cindy Olsen have been damaged, including by interfering with the Olsens' right of ownership and possession of the premises, and by intentionally causing the Olsens emotional distress and mental anguish.

COUNT XX

Intentional Infliction of Emotional Distress

[Against Defendant Lincoln Butts]

505. Plaintiffs reassert the foregoing as if fully rewritten herein.

506. Through his conduct and the conduct of the officers under his direction, Defendant Butts intended to cause emotional distress to the Olsens.

507. The aforementioned conduct was extreme and outrageous especially given Emilie's recent death.

508. As a direct and proximate result of this conduct, Marc and Cindy Olsen have suffered emotional distress requiring extensive medical counseling and treatment.

COUNT XXI

Request for Declaratory Judgment

509. Plaintiffs reassert the foregoing as if fully rewritten herein.

510. A real and justiciable controversy exists, as pleaded herein.

511. Plaintiffs are entitled to a declaration as to the rights of the parties that will terminate uncertainty and put an end to the controversy.

512. Plaintiffs have a legal interest in the controversy.

513. Pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 and 2202, and Ohio's Declaratory Judgment Act, R.C. 2721.01, et seq., Plaintiffs request an order

declaring that the acts and conduct of all Defendants constitute violations of Plaintiffs' constitutional, statutory and common-law rights.

514. Plaintiffs further request a monetary judgment against Defendants, as well as attorneys' fees, costs and interest.

COUNT XXII

Request for Injunctive Relief

515. Plaintiffs reassert the foregoing as if fully rewritten herein.

516. Plaintiffs have suffered irreparable injury including without limitation the loss of their daughter and consequent mental and emotional injury.

517. The remedies available at law, such as monetary damages, are inadequate to compensate for those injuries.

518. Given the balance of hardship between Plaintiffs and Defendants, a remedy in equity is warranted.

519. The public interest would not be disserved by a permanent injunction, and in fact, the public interest would be greatly furthered by the permanent injunction sought herein.

520. Plaintiffs therefore request a permanent injunction ordering Defendants to stop engaging in unconstitutional and unlawful acts, and to develop policies and procedures for ending any such unconstitutional and unlawful acts and the hostile and intolerant environment, including but not limited to the following:

- a. Require Defendants to implement mandatory and effective training programs for District faculty, staff, and students on issues relating to bullying, harassment, sexual discrimination, and race/national origin discrimination, and methods to intervene to stop students from bullying or harassing other students for any reason but particularly based on their sex, race, or national origin;

b. Require Defendants to adopt policies with specific guidelines for instructing teachers, security guards, bus drivers, hall monitors and administrators about how to address complaints by students who have been bullied, harassed, or discriminated against for any reason but particularly based on their sex, race, or national origin;

c. Require Defendants to adopt policies implementing increased and enhanced supervision of staff enforcement of anti-bullying, anti-harassment, and anti-discrimination policies, including without limitation semi-annual reviews of all staff regarding compliance with said policies, and revised job descriptions of the principal and assistant principal in each school within the District reflecting that said officials are responsible for supervising staff members compliance with said policies.

d. Require Defendants to adopt and/or revise their policies to mandate that notice of all harassment, bullying, and sexual/racial/national origin discrimination complaints is promptly provided to the building principal and the parents of the student-victims and student-perpetrators;

e. Require the Superintendent and the School Board to review all complaints of bullying, harassment, and sexual/racial/national origin discrimination, as well as any investigations, disciplinary measures, and other school responses thereto.

f. Require Defendants to adopt and/or revise policies to ensure that complaints of online bullying, harassment, or discrimination (“cyber-bullying”), occurring both on and off school grounds and both during and after school hours, are promptly and properly investigated, and are reported to the parents of student-victims and student-perpetrators, and that effective measures are taken to ensure that the cyber-bullying ceases and/or that cyber-bullying is adequately punished.

g. Require Defendants to adopt policies requiring the District to offer professional counseling and other forms of mental, emotional, and social support to all students who have reportedly been bullied, harassed, or discriminated against.

h. Require Defendants to conduct assemblies for all students in the School District addressing issues of bullying, harassment, discrimination and tolerance, wherein students are instructed about laws, regulations, and policies prohibiting bullying, harassment and discrimination, and about the effects of harassment, bullying, and discrimination on victims, and regarding the support available to victims.

i. Require Defendants to assign a peer mediator and/or other staff member to District schools to provide active monitoring for the schools

and to address instances of bullying, harassment and discrimination that arise at the schools;

j. Require Defendants to maintain files on students who have been accused of bullying, harassment, and discrimination, and to institute a tracking system for bullying, harassment, and sexual/racial/national origin discrimination incidents.

k. Require Defendants to maintain statistical data concerning each complaint of bullying, harassment, or sexual/racial/national origin discrimination reported to Defendants, as well as the specific action district principals, assistant principals, teachers, security guards, bus drivers, and administrators took to resolve the complaint;

l. Require Defendants to provide in writing to all parents of Fairfield students: the above-referenced statistical data; the District's policies regarding bullying, harassment, and discrimination; the District's training programs for staff regarding these subjects; and the resources available to students who have been bullied, harassed or discriminated against.

m. Require Defendants to develop peer support programs to counteract bullying, harassment and discrimination, and promote peer respect, kindness, values, compassion, and goodwill.

n. For all other injunctive relief that the Court deems appropriate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request judgment in their favor and pray for relief against Defendants as follows:

1. For an order granting Plaintiffs compensatory, punitive, treble, incidental, exemplary and other damages, in amounts determined by the finder of fact;
2. For an order granting the declaratory relief sought herein;
3. For an order granting the injunctive relief sought herein;
4. For an order granting Plaintiffs their expenses and costs, including reasonable attorneys' fees;
5. For an order granting Plaintiffs pre-judgment and post-judgment interest; and

6. For an order granting Plaintiffs all other and further relief to which they are entitled at law or in equity.

Respectfully submitted,

RENDIGS, FRY, KIELY & DENNIS, LLP

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