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8 JAYLEN ESCOBOSA

9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11 JAYLEN ESCOBOSA ,

12
13 Plaintiff,

14 vs.

15 PIERCE JOINT UNIFIED SCHOOL
16 DISTRICT, SCOTT BURNUM, JOHN
17 ALLEN, EMILY LLOYD, and DOES 1-
18 10, inclusive,

19 Defendants.
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CASE NO.

**COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL**

1. VIOLATION OF TITLE VI (42 U.S.C.
§ 2000(d) - RACIALLY HOSTILE
EDUCATIONAL ENVIRONMENT

2. VIOLATION OF TITLE VI (42 U.S.C.
§ 2000(d) - INTENTIONAL
DISCRIMINATION BY DENIAL OF
BENEFITS OF A PUBLIC EDUCATION

3. 42 U.S.C. SECTION 1983/FIRST
AMENDMENT RETALIATION

4. 42 U.S.C. SECTION 1983/
VIOLATION OF EQUAL PROTECTION
CLAUSE OF THE 14TH AMENDMENT

5. NEGLIGENT SUPERVISION,
TRAINING, HIRING, AND
RETENTION

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3 **VENUE AND JURISDICTION**

4 1. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and
5 1343(a)(3)-(4) because Plaintiff asserts claims arising under the laws of the United
6 States including 42 U.S.C. § 2000d, et seq.. Venue is proper in this Court under 28
7 U.S.C. § 1391(b) because Defendants reside in this district and all incidents, events,
8 and occurrences giving rise to this action occurred in this district.

9 2. This Court has supplemental jurisdiction over the state law claims asserted
10 herein pursuant to 28 U.S.C. § 1367, because the claims form part of the same case or
11 controversy arising under the United States Constitution and federal law.

12 **THE PARTIES**

13 3. At all times mentioned herein, Plaintiff, JAYLEN ESCOBOSA ("JAYLEN")
14 was an individual residing in the County of Colusa, State of California.

15 4. At all times mentioned herein, PIERCE JOINT UNIFIED SCHOOL
16 DISTRICT and DOES 1-3 (hereafter also "PIERCE") was a public entity duly
17 organized and existing under and by virtue of the laws of the State of California.

18 5. Defendant SCOTT BURNUM is a resident of County of Colusa, State of
19 California. At all relevant times herein, BURNUM was a teacher working for
20 PIERCE. At all relevant times, BURNUM was acting under color of law within the
21 course and scope of his duties as a teacher for PIERCE. BURNUM was acting with
22 the complete authority and ratification of his principal, Defendant PIERCE.

23 6. Defendant JOHN ALLEN is a resident of County of Colusa, State of California.
24 At all relevant times herein, ALLEN was a teacher working for PIERCE. At all
25 relevant times, ALLEN was acting under color of law within the course and scope of
26 his duties as a teacher for PIERCE. ALLEN was acting with the complete authority
27 and ratification of his principal, Defendant PIERCE.

28 7. Defendant EMILY LLOYD is a resident of County of Colusa, State of
California. At all relevant times herein, LLOYD was An assistant principal working

1 for PIERCE. At all relevant times, LLOYD was acting under color of law within the
2 course and scope of her duties as an administrator for PIERCE. LLOYD was acting
3 with the complete authority and ratification of his principal, Defendant PIERCE.

4 8. Defendants DOES 4-6 are managerial, supervisory, and policymaking
5 employees of PIERCE, who were acting under color of law within the course and
6 scope of their duties as managerial, supervisory, and policymaking employees for the
7 PIERCE. DOES 4-6 were acting with the complete authority and ratification of their
8 principal, Defendant PIERCE. Defendants DOES 4-6 is and was responsible for the
9 hiring, screening, training, retention, supervision, discipline, counseling, and control
10 of PIERCE employees and/or agents. Upon information and belief, Defendants DOES
11 4-6 is and was responsible for the administration of Pierce High School and report
12 directly to the Superintendent. Upon information and belief, Defendants DOES 4-6 is
13 and was responsible for ensuring the execution of the Superintendent's duties with
14 respect to schools. Defendants DOES 4-6 is and was also responsible for the
15 promulgation of the policies and procedures and allowance of the practices/customs
16 pursuant to which the acts of the PIERCE alleged herein were committed. Defendants
17 DOES 4-6 are being sued in their individual capacity.

18 9. Defendants DOES 7-10 are teachers, employees, or agents working for
19 PIERCE. At all relevant times, DOES 7-10 were acting under color of law within the
20 course and scope of their duties as teachers, employees, or agents for PIERCE. DOES
21 7-10 were acting with the complete authority and ratification of their principal,
22 Defendant PIERCE.

23 10. The true names and capacities, whether individual, corporate, association or
24 otherwise of Defendants DOES 1-10, inclusive, are unknown to Plaintiffs, who
25 otherwise sue these Defendants by such fictitious names. Plaintiffs will seek leave to
26 amend their complaint to show the true names and capacity of these Defendants when
27 they have been ascertained. Each of the fictitiously-named Defendants is responsible
28 in some manner for the conduct or liabilities alleged herein.

1 11. At all times mentioned herein, each and every defendant was the co-conspirator
2 with, and/or agent of each and every other defendant and had the legal duty to oversee
3 and supervise the hiring, conduct, and employment of each and every defendant.

4 12. All of the acts complained of herein by Plaintiffs against Defendants were done
5 and performed by said Defendants by and through their authorized agents, servants,
6 and/or employees, all of whom at all relevant times herein were acting within the
7 course, purpose, and scope of said agency, service, and/or employment capacity.
8 Moreover, Defendants and their agents ratified all of the acts complained of herein.

9 13. DOES 1-10 are sued in their individual capacity as well as representative
10 capacities.

11 14. On or about November 2, 2023, Plaintiff filed comprehensive and timely claims
12 for damages with PIERCE pursuant to applicable sections of the California
13 Government Code. On or about February 16, 2024, the government claim was
14 rejected. A true and correct copy of the government claim and its rejection are
15 attached hereto as Ex. 1 & 2.

16 **FACTUAL ALLEGATIONS**
17

18 15. At all times mentioned herein, JAYLEN was a student at Pierce High School,
19 located at 960 Wildwood Road, Arbuckle, CA 95912. Pierce High School is a sub-
20 entity of PIERCE, and the only public high school in Arbuckle, CA.

21 16. JAYLEN is a bi-racial American (black and Latino).

22 17. At all times mentioned herein, PIERCE received federal funds.

23 18. At all times mentioned herein, Pierce High School had three Black American
24 students, and about 50% of the student and teacher population was Caucasian and the
25 other 50% are Latino.

26 19. During JAYLEN's four years of attendance at Pierce High School, the coaches
27 and school employees crack racist jokes and make racist (e.g., bush-oakys, wetbacks,
28

1 and nigger) remarks about Black Americans and Latinos. PIERCE is aware of
2 rampant racism among its employees.

3 20. Additionally, Pierce High School employees allow white students to make
4 racist remarks toward black and Latino students, including referring to watermelons as
5 “nigger-berries”, call JAYLEN and his mother, “dumb niggers” and saying that
6 JAYLEN is adopted because he has a white father. White students at the school also
7 call latino students that get school lunch “broken ass beans”. This hate speech was
8 brought to the attention of the school. The school’s response was that they would have
9 a talk with the students, but the issues continued. The school employees that actually
10 heard the language thought it was just funny and said that JAYLEN should just “calm
11 down”.

12 21. During the 2021-2022 school year, JAYLEN (then 16 years old) was on time to
13 a class taught by teacher, SCOTT BURNUM ("BURNUM"). After JAYLEN sat
14 down, BURNUM grabbed JAYLEN’s head and slammed it on the desk, causing
15 JAYLEN to bleed. After class, BURNUM followed JAYLEN to the hallway asking if
16 JAYLEN wanted BURNUM to compensate him for the injury.

17 22. That evening, BURNUM called Mr. Escobosa, JAYLEN's father, and admitted
18 that things got out of control and JAYLEN had marks on his face. Mr. Escobosa
19 reported this incident to the Principal Don Friel ("Friel") initially when it happened
20 but nothing was done.

21 23. During the 2022-2023 school year, JAYLEN (then 17 years old) asked a
22 teacher, Erin Sweet ("Sweet"), why a particular girl (white) in the school was allowed
23 to roam around the campus during class and not be referred for discipline when he
24 would be in trouble and the teacher responded, “Because you’re Black. Come on, you
25 know that.”

26 24. On or about April 2023, students, including JAYLEN, were going to work at
27 the school farm. JAYLEN complained that it was hot. The teacher, Cesar Hidalgo,
28 responded, “You should be used to the heat because you’re black”.

1 25. On or about August 2023, BURNUM used the racial slur, “Nigger” during
2 class. There was no legitimate educational need to use the term. PIERCE
3 Superintendent Carol Geyer was present.

4 26. On or about August 2023, Mr. Escobosa sent an email through the PIERCE’s
5 portal notifying the school that JAYLEN suffered from PTSD and ADHD. Mr.
6 Escobosa asked the school to be mindful of these conditions when interacting with
7 JAYLEN. Additionally, Mr. Escobosa that JAYLEN was struggling to stay engaged
8 in school due to the targeted harassment and racial jokes by the staff about Black
9 people.

10 27. On or about August 2023, JAYLEN walked into teacher, JOHN ALLEN’s
11 ("ALLEN") room with his sweatshirt hoodie up over his head. ALLEN said, “take
12 your hoodie off, hoodlum”. JAYLEN repeatedly asked ALLEN to call him by his
13 name. ALLEN called JAYLEN “Hoodlum” three more times in front of the class.

14 28. On or about August 2023, during lunch, JAYLEN was talking to another
15 student on campus who was sitting in their car in the parking lot. LLOYD approached
16 and questioned JAYLEN (singled him out of three people, one Hispanic and one
17 Caucasian male) about what he was doing. She told him that he needed to get back on
18 campus even though he was on campus. At that point, LLOYD continued stare at
19 JAYLEN until he went to get his lunch from his truck. She followed him to his truck
20 and then into the school where he eats his lunch.

21 29. On or aout August 2023, teacher Don Joel ("Joel") demanded that JAYLEN
22 complete a student athlete grade check form even though JAYLEN is not a student
23 athlete. When JAYLEN refused, Joel and LLOYD threatened him with detention.
24 Additionally, LLOYD threatened JAYLEN with suspension. LLOYD asked
25 JAYLEN if he wanted to graduate in a threatening way. JAYLEN told her to check his
26 grades and then tell him he wasn’t going to graduate. LLOYD said, "I don’t have to
27 check your grades.", implying that she could punish him
28 by stopping his graduation.

1 30. On or about September 2023, JAYLEN asked ALLEN a question about an
2 assignment. ALLEN did not answer JAYLEN's question and told him in front of the
3 class that he, JAYLEN, "only asks dumb questions".

4 31. On or about September 2023, Mr. Escobosa emails Superintendent Geyer.
5 JAYLEN witnessed a Pierce High School employee call another black student,
6 "nigger" during class.

7 32. Two weeks later, BURNUM used the N word on a black student.

8 33. BURNUM remains a teacher at the high school, and suffered no corrective
9 action, which is reflected in his continued use of racist language and behavior.

10 34. On Monday, December 11, 2023, JAYLEN was contacted by his Agriculture
11 class teacher, Justin Hornbuckle, who told him that Principal Friel needed a cattle gate
12 built for his cattle on school property. The cattle are the personal property of Principal
13 Friel.

14 35. Hornbuckle then told JAYLEN that the class had to build Mr. Friel's gate for
15 him and it was going be their final grade in the class. JAYLEN hurt his back in the
16 process of moving the trailer.

17 36. LLOYD tells JAYLEN to "move to another school."

18 37. JAYLEN and Mr. Escobosa continuously complained about the unlawful
19 conduct to PIERCE officials, including the Superintendent and Pierce High School
20 Principal. A meaningful investigation was never undertaken, and no remedial
21 measures were applied. PIERCE's defective, and flimsy single investigation sustained
22 many of the allegations, but no meaningful actions occurred thereafter.

23
24 **FIRST CLAIM FOR RELIEF**
25 **VIOLATION OF TITLE VI (42 U.S.C. § 2000(d) - RACIALLY HOSTILE**
26 **EDUCATIONAL ENVIRONMENT**
27 **AGAINST PIERCE**

28 38. Each and every allegation set forth in the preceding paragraphs is incorporated
herein by this reference with the same effect as if realleged herein.

1 39. Title VI of the Civil Rights Act of 1964 states: “No person in the United States
2 shall, on the ground of race, color, or national origin, be excluded from participation
3 in, be denied the benefits of, or be subjected to discrimination under any program or
4 activity receiving Federal financial assistance.” 42 U.S.C. § 2000(d).

5 40. The existence of a racially hostile environment is a question of fact that depends
6 upon the severity, pervasiveness, and persistence of racial harassment. 59 Fed. Reg.
7 11448.

8 41. An educational institution has a duty to provide a nondiscriminatory
9 environment that is conducive to learning. In addition to the curriculum, students learn
10 about many different aspects of human life and interaction from school. The type of
11 environment that is tolerated or encouraged by or at a school can therefore send a
12 particularly strong signal to, and serve as an influential lesson for, its students. 59 Fed.
13 Reg. 11448.

14 42. At all times mentioned herein, PIERCE received federal funds.

15 43. At all times mentioned herein, JAYLEN was a teenager (ages 15 to 18) when he
16 attended Pierce High School (9th-12th Grade).

17 44. "It does not take an educational psychologist to conclude that ... being shamed
18 and humiliated on the basis of one's race, and having the school authorities ignore or
19 reject one's complaints would adversely affect a Black child's ability to obtain the
20 same benefit from schooling as her white counterparts. This is especially so when we
21 also consider, in accordance with the agency's interpretation, the victim's age. Ninth
22 grade is a sensitive time in a child's life. It is the beginning of high school, when a
23 young adolescent is highly impressionable and is making decisions about education
24 that will affect the course of her life. It is when college plans are often either begun or
25 abandoned." *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1034 (9th Cir.
26 1998).

27 45. The racially hostile environment at Pierce High School was created by school
28 employees *and* students.

1 46. School employees committed the following:

- 2 a. During JAYLEN's four years of attendance at Pierce High School, the
3 coaches and school employees crack racist jokes and make racist (e.g.,
4 bush-oakys, wetbacks, and nigger) remarks about Black Americans and
5 Latinos.
- 6 b. JAYLEN (then 16 years old) was physically assaulted by teacher
7 BURNUM. On or about August 2023, BURNUM used the racial slur,
8 “Nigger” during class. Later, BURNUM used the N word toward another
9 black student.
- 10 c. During the 2022-2023 school year, JAYLEN (then 17 years old) asked a
11 teacher, Erin Sweet ("Sweet"), why a particular girl (white) in the school
12 was allowed to roam around the campus during class and not be referred
13 for discipline when he would be in trouble and the teacher responded,
14 “Because you’re Black. Come on, you know that.”
- 15 d. On or about April 2023, students, including JAYLEN, were going to
16 work at the school farm. JAYLEN complained that it was hot. The
17 teacher, Cesar Hidalgo, responded, “You should be used to the heat
18 because you’re black”.
- 19 e. On or about August 2023, JAYLEN walked into teacher, JOHN
20 ALLEN’s (“ALLEN”) room with his sweatshirt hoodie up over his head.
21 ALLEN said, “take your hoodie off, hoodlum”. JAYLEN repeatedly
22 asked ALLEN to call him by his name. ALLEN called JAYLEN
23 “Hoodlum” three more times in front of the class.
- 24 f. On or about August 2023, during lunch, JAYLEN was talking to another
25 student on campus who was sitting in their car in the parking lot. LLOYD
26 approached and questioned JAYLEN (singled him out of three people,
27 one Hispanic and one Caucasian male) about what he was doing. She told
28 him that he needed to get back on campus even though he was on

1 campus. At that point, LLOYD continued stare at JAYLEN until he went
2 to get his lunch from his truck. She followed him to his truck and then
3 into the school where he eats his lunch.

4 g. On or aout August 2023, teacher Don Joel ("Joel") demanded that
5 JAYLEN complete a student athlete grade check form even though
6 JAYLEN is not a student athlete. When JAYLEN refused, Joel and
7 LLOYD threatened him with detention. Additionally, LLOYD threatened
8 JAYLEN with suspension. LLOYD asked JAYLEN if he wanted to
9 graduate in a threatening way. JAYLEN told her to check his grades and
10 then tell him he wasn't going to graduate. LLOYD said, "I don't have to
11 check your grades.", implying that she could punish him by stopping his
12 graduation.

13 h. On or about September 2023, JAYLEN asked ALLEN a question about
14 an assignment. ALLEN did not answer JAYLEN's question and told him
15 in front of the class that he, JAYLEN, "only asks dumb questions".

16 i. On Monday, December 11, 2023, JAYLEN was contacted by his
17 Agriculture class teacher, Justin Hornbuckle, who told him that Principal
18 Friel needed a cattle gate built for his cattle on school property. The cattle
19 are the personal property of Principal Friel. Hornbuckle then told
20 JAYLEN that the class had to build Mr. Friel's gate for him and it was
21 going be their final grade in the class. JAYLEN hurt his back in the
22 process of moving the trailer.

23 j. LLOYD tells JAYLEN to "move to another school."

24 47. Additionally, Pierce High School employees allow white students to make
25 racist remarks toward black and Latino students, including referring to watermelons as
26 "nigger-berries", call JAYLEN and his mother, "dumb niggers" and saying that
27 JAYLEN is adopted because he has a white father. White students at the school also
28 call Latino students that get school lunch "broken ass beans". This hate speech was

1 brought to the attention of the school. The school's response was that they would
2 have a talk with the students, but the issues continued. The school employees that
3 actually heard the language thought it was just funny and said that JAYLEN should
4 just "calm down".

5 48. JAYLEN and Mr. Escobosa continuously complained about the unlawful
6 conduct to PIERCE officials, including the Superintendent and Pierce High School
7 Principal. A meaningful investigation was never undertaken, and no remedial
8 measures were applied. PIERCE's defective, and flimsy single investigation sustained
9 many of the allegations, but no meaningful actions occurred thereafter.

10 49. No students were punished or disciplined for a racial hostile environment.

11 50. BURNUM remains a teacher at the high school, and suffered no remedial
12 measures, which is reflected in his continued use of racist language and behavior.

13 51. ALLEN remains a teacher at the high school, and suffered no remedial
14 measures.

15 52. Joel remains a teacher at the high school, and suffered no remedial measures.

16 53. Sweet remains a teacher at the high school, and suffered no remedial measures.

17 54. Hidalgo remains a teacher at the high school, and suffered no remedial
18 measures.

19 55. Hornbuckle remains a teacher at the high school, and suffered no remedial
20 measures.

21 56. LLOYD remains a vice-principal at the high school, and suffered no remedial
22 measures.

23 57. PIERCE has actual knowledge of the harassment but was deliberately
24 indifferent to the harassment. "There can be no doubt that Ms. Monteiro's amended
25 complaint alleges a pattern of egregious public racial harassment including the use of
26 the epithet 'nigger,' that Black students and their parents complained but were
27 rebuffed, and that nothing was ever done about the problem. It goes without saying
28 that being called a 'nigger' by your white peers (or hearing that term applied to your

1 Black classmates) exposes Black children to a 'risk of discrimination' that is so
2 substantial and obvious that a failure to act can only be the result of deliberate
3 indifference." *Monteiro v. Tempe Union High Sch. Dist.*, 158 F.3d 1022, 1034 (9th
4 Cir. 1998).

5 58. As a direct and legal result of the defendants actions, JAYLEN was harmed,
6 and is entitled to economic and non economic damages in excess of the minimum
7 jurisdiction of this court, to attorneys fees, litigation costs, fines, penalties, interest and
8 such other relief as the court deems just and proper.

9
10 **SECOND CLAIM FOR RELIEF**
11 **VIOLATION OF TITLE VI (42 U.S.C. § 2000(d) - INTENTIONAL**
12 **DISCRIMINATION BY DENIAL OF BENEFITS OF A PUBLIC EDUCATION**
13 **AGAINST PIERCE**

14 59. Each and every allegation set forth in the preceding paragraphs is incorporated
15 herein by this reference with the same effect as if realleged herein.

16 60. Title VI of the Civil Rights Act of 1964 states: "No person in the United States
17 shall, on the ground of race, color, or national origin, be excluded from participation
18 in, be denied the benefits of, or be subjected to discrimination under any program or
19 activity receiving Federal financial assistance." 42 U.S.C. § 2000(d).

20 61. At all times mentioned herein, PIERCE received federal funds.

21 62. At all times mentioned herein, JAYLEN was a teenager (ages 15 to 18) when he
22 attended Pierce High School (9th-12th Grade).

23 63. School employees committed the following:

24 a. During JAYLEN's four years of attendance at Pierce High School, the
25 coaches and school employees crack racist jokes and make racist (e.g., bush-oakys,
26 wetbacks, and nigger) remarks about Black Americans and Latinos.

27 b. JAYLEN (then 16 years old) was physically assaulted by teacher
28 BURNUM. On or about August 2023, BURNUM used the racial slur, "Nigger"
during class. Later, BURNUM used the N word toward another black student.

1 c. During the 2022-2023 school year, JAYLEN (then 17 years old) asked a
2 teacher, Erin Sweet ("Sweet"), why a particular girl (white) in the school was allowed
3 to roam around the campus during class and not be referred for discipline when he
4 would be in trouble and the teacher responded, "Because you're Black. Come on, you
5 know that."

6 d. On or about April 2023, students, including JAYLEN, were going to
7 work at the school farm. JAYLEN complained that it was hot. The teacher, Cesar
8 Hidalgo, responded, "You should be used to the heat because you're black".

9 e. On or about August 2023, JAYLEN walked into teacher, JOHN
10 ALLEN's ("ALLEN") room with his sweatshirt hoodie up over his head. ALLEN
11 said, "take your hoodie off, hoodlum". JAYLEN repeatedly asked ALLEN to call him
12 by his name. ALLEN called JAYLEN "Hoodlum" three more times in front of the
13 class.

14 f. On or about August 2023, during lunch, JAYLEN was talking to another
15 student on campus who was sitting in their car in the parking lot. LLOYD approached
16 and questioned JAYLEN (singled him out of three people, one Hispanic and one
17 Caucasian male) about what he was doing. She told him that he needed to get back on
18 campus even though he was on campus. At that point, LLOYD continued stare at
19 JAYLEN until he went to get his lunch from his truck. She followed him to his truck
20 and then into the school where he eats his lunch.

21 g. On or aout August 2023, teacher Don Joel ("Joel") demanded that
22 JAYLEN complete a student athlete grade check form even though JAYLEN is not a
23 student athlete. When JAYLEN refused, Joel and LLOYD threatened him with
24 detention. Additionally, LLOYD threatened JAYLEN with suspension. LLOYD
25 asked JAYLEN if he wanted to graduate in a threatening way. JAYLEN told her to
26 check his grades and then tell him he wasn't going to graduate. LLOYD said, "I don't
27 have to check your grades.", implying that she could punish him by stopping his
28 graduation.

1 h. On or about September 2023, JAYLEN asked ALLEN a question about
2 an assignment. ALLEN did not answer JAYLEN's question and told him in front of
3 the class that he, JAYLEN, "only asks dumb questions".

4 i. On Monday, December 11, 2023, JAYLEN was contacted by his
5 Agriculture class teacher, Justin Hornbuckle, who told him that Principal Friel needed
6 a cattle gate built for his cattle on school property. The cattle are the personal property
7 of Principal Friel. Hornbuckle then told JAYLEN that the class had to build Mr.
8 Friel's gate for him and it was going be their final grade in the class. JAYLEN hurt his
9 back in the process of moving the trailer.

10 j. LLOYD tells JAYLEN to "move to another school."

11 64. Additionally, Pierce High School employees allow white students to make
12 racist remarks toward black and Latino students, including referring to watermelons as
13 "nigger-berries", call JAYLEN and his mother, "dumb niggers" and saying that
14 JAYLEN is adopted because he has a white father. White students at the school also
15 call Latino students that get school lunch "broken ass beans". This hate speech was
16 brought to the attention of the school. The school's response was that they would
17 have a talk with the students, but the issues continued. The school employees that
18 actually heard the language thought it was just funny and said that JAYLEN should
19 just "calm down".

20 65. JAYLEN and Mr. Escobosa continuously complained about the unlawful
21 conduct to PIERCE officials, including the Superintendent and Pierce High School
22 Principal. A meaningful investigation was never undertaken, and no remedial
23 measures were applied. PIERCE's defective, and flimsy single investigation sustained
24 many of the allegations, but no meaningful actions occurred thereafter.

25 66. No students were punished or disciplined for a racial hostile environment.

26 67. BURNUM remains a teacher at the high school, and suffered no remedial
27 measures, which is reflected in his continued use of racist language and behavior.
28

1 68. ALLEN remains a teacher at the high school, and suffered no remedial
2 measures.

3 69. Joel remains a teacher at the high school, and suffered no remedial measures.

4 70. Sweet remains a teacher at the high school, and suffered no remedial measures.

5 71. Hidalgo remains a teacher at the high school, and suffered no remedial
6 measures.

7 72. Hornbuckle remains a teacher at the high school, and suffered no remedial
8 measures.

9 73. LLOYD remains a vice-principal at the high school, and suffered no remedial
10 measures.

11 74. PIERCE has actual knowledge of the discrimination but was deliberately
12 indifferent to the discrimination.

13 75. JAYLEN did not obtain an adequate public education because he was targeted
14 with racial harassment and racial discrimination by the staff about Black people.

15 76. As a direct and legal result of the defendants actions, JAYLEN was harmed,
16 and is entitled to economic and non economic damages in excess of the minimum
17 jurisdiction of this court, to attorneys fees, litigation costs, fines, penalties, interest and
18 such other relief as the court deems just and proper.

19
20 **THIRD CLAIM FOR RELIEF**
42 U.S.C. SECTION 1983/FIRST AMENDMENT RETALIATION
21 **AGAINST BURNUM & LLOYD**

22 77. Each and every allegation set forth in the preceding paragraphs is incorporated
23 herein by this reference with the same effect as if realleged herein.

24 78. Under the First Amendment to the United States Constitution, a citizen has the
25 right to be free from governmental action taken to retaliate against the citizen's
26 exercise of First Amendment rights or to deter the citizen from exercising those rights
27 in the future. *Sloman v. Tadlock*, 21 F.3d 1462, 1469-70 (9th Cir. 1994).
28

1 79. "The First Amendment protects all student speech that is neither school-
2 sponsored, a true threat nor vulgar, lewd, obscene or plainly offensive unless school
3 officials show "facts which might reasonably have led [them] to forecast substantial
4 disruption of or material interference with school activities." *Pinard v. Clatskanie Sch.*
5 *Dist. 6J*, 467 F.3d 755, 767 (9th Cir. 2006). A student has a constitutional right to
6 speak with her parents and have them speak freely on her behalf. *Cain v. Tigard-*
7 *Tualatin Sch. Dist. 23J*, 262 F. Supp. 2d 1120, 1127 (D. Or. 2003). Relatedly, it is
8 well-established that a student has a protected right to raise complaints about teachers
9 to school and district officials. *See e.g. Pinard v. Clatskanie Sch. Dist. 6J*, 467 F.3d
10 755, 771 (9th Cir. 2006) (student complaints to district that basketball coach was
11 "verbally abusive and highly intimidating" are protected by the First Amendment).

12 80. During the 2021-2022 school year, JAYLEN (then 16 years old) was on time to
13 a class taught by teacher, SCOTT BURNUM ("BURNUM"). After JAYLEN sat
14 down, BURNUM grabbed JAYLEN's head and slammed it on the desk, causing
15 JAYLEN to bleed. After class, BURNUM followed JAYLEN to the hallway asking if
16 JAYLEN wanted BURNUM to compensate him for the injury. That evening,
17 BURNUM called Mr. Escobosa, JAYLEN's father, and admitted that things got out of
18 control and JAYLEN had marks on his face. Mr. Escobosa reported this incident to
19 the Principal Don Friel ("Friel") initially when it happened but nothing was done.

20 81. On or about August 2023, BURNUM used the racial slur, "Nigger" during
21 class. There was no legitimate educational need to use the term. PIERCE
22 Superintendent Carol Geyer was present.

23 82. On or about August 2023, Mr. Escobosa sent an email through the PIERCE's
24 portal notifying the school that JAYLEN suffered from PTSD and ADHD. Mr.
25 Escobosa asked the school to be mindful of these conditions when interacting with
26 JAYLEN. Additionally, Mr. Escobosa that JAYLEN was struggling to stay engaged
27 in school due to the targeted harassment and racial jokes by the staff about Black
28 people.

1 83. On or about August 2023, during lunch, JAYLEN was talking to another
2 student on campus who was sitting in their car in the parking lot. LLOYD approached
3 and questioned JAYLEN (singled him out of three people, one Hispanic and one
4 Caucasian male) about what he was doing. She told him that he needed to get back on
5 campus even though he was on campus. At that point, LLOYD continued stare at
6 JAYLEN until he went to get his lunch from his truck. She followed him to his truck
7 and then into the school where he eats his lunch.

8 84. On or about August 2023, teacher Don Joel ("Joel") demanded that JAYLEN
9 complete a student athlete grade check form even though JAYLEN is not a student
10 athlete. When JAYLEN refused, Joel and LLOYD threatened him with detention.
11 Additionally, LLOYD threatened JAYLEN with suspension. LLOYD asked
12 JAYLEN if he wanted to graduate in a threatening way. JAYLEN told her to check his
13 grades and then tell him he wasn't going to graduate. LLOYD said, "I don't have to
14 check your grades", implying that she could punish him by stopping his graduation.

15 85. BURNUM used the N word on a black student.

16 86. LLOYD tells JAYLEN to "move to another school."

17 87. BURNUM remains a teacher at the high school, and suffered no remedial
18 measures, which is reflected in his continued use of racist language and behavior.

19 88. LLOYD remains a vice-principal at the high school, and suffered no remedial
20 measures.

21 89. BURNUM and LLOYD's actions against JAYLEN would chill a teenage Black
22 American of ordinary firmness from continuing to engage in the protected activity.

23 90. JAYLEN's protected activity was a substantial or motivating factor in the
24 BURNUM and LLOYD's conduct.

25
26 91. As a direct and legal result of the defendants actions, JAYLEN was harmed,
27 and is entitled to economic and non economic damages in excess of the minimum
28

1 jurisdiction of this court, to attorneys fees, litigation costs, fines, penalties, interest and
2 such other relief as the court deems just and proper.

3
4 **FOURTH CLAIM FOR RELIEF**
5 **42 U.S.C. SECTION 1983/VIOLATION OF EQUAL PROTECTION CLAUSE**
6 **OF THE 14TH AMENDMENT**
7 **AGAINST BURNUM, LLOYD & ALLEN**

8 92. Each and every allegation set forth in the preceding paragraphs is incorporated
9 herein by this reference with the same effect as if realleged herein.

10 93. The Equal Protection Clause of the Fourteenth Amendment provides that “[n]o
11 state shall ... deny to any person within its jurisdiction the equal protection of the
12 laws.” U.S. Const., amend. XIV, § 1.

13 94. “In the specific context of a school administrator’s failure to ... discipline
14 harassment at school, a defendant acts with deliberate indifference when he or she
15 responds to known harassment in a manner that is clearly unreasonable.” *Walsh v.*
16 *Tehachapi Unified Sch. Dist.*, 827 F. Supp. 2d 1107, 1116 (E.D. Cal. 2011).
17 Furthermore, the Supreme Court has held that retaliation for complaints of
18 discrimination is itself intentional discrimination. *See Jackson v. Bd. of Educ.*, 544
19 U.S. 167, 173-74 (2005) (holding retaliation for complaint of gender discrimination
20 “is discrimination on the basis of sex because it is an intentional response to the nature
21 of the complaint: an allegation of sex discrimination.”).

22 95. BURNUM, LLOYD, and ALLEN acted with intent or purpose to discriminate
23 against JAYLEN because he was a Black American or complained about
24 discrimination/harassment.

25 96. During the 2021-2022 school year, JAYLEN (then 16 years old) was on time to
26 a class taught by teacher, SCOTT BURNUM ("BURNUM"). After JAYLEN sat
27 down, BURNUM grabbed JAYLEN’s head and slammed it on the desk, causing
28 JAYLEN to bleed. After class, BURNUM followed JAYLEN to the hallway asking if
JAYLEN wanted BURNUM to compensate him for the injury. That evening,

1 BURNUM called Mr. Escobosa, JAYLEN's father, and admitted that things got out of
2 control and JAYLEN had marks on his face. Mr. Escobosa reported this incident to
3 the Principal Don Friel ("Friel") initially when it happened but nothing was done.

4 97. On or about August 2023, BURNUM used the racial slur, "Nigger" during
5 class. There was no legitimate educational need to use the term. PIERCE
6 Superintendent Carol Geyer was present.

7 98. On or about August 2023, Mr. Escobosa sent an email through the PIERCE's
8 portal notifying the school that JAYLEN suffered from PTSD and ADHD. Mr.
9 Escobosa asked the school to be mindful of these conditions when interacting with
10 JAYLEN. Additionally, Mr. Escobosa that JAYLEN was struggling to stay engaged
11 in school due to the targeted harassment and racial jokes by the staff about Black
12 people.

13 99. On or about August 2023, during lunch, JAYLEN was talking to another
14 student on campus who was sitting in their car in the parking lot. LLOYD approached
15 and questioned JAYLEN (singled him out of three people, one Hispanic and one
16 Caucasian male) about what he was doing. She told him that he needed to get back on
17 campus even though he was on campus. At that point, LLOYD continued stare at
18 JAYLEN until he went to get his lunch from his truck. She followed him to his truck
19 and then into the school where he eats his lunch.

20 100. On or about August 2023, teacher Don Joel ("Joel") demanded that JAYLEN
21 complete a student athlete grade check form even though JAYLEN is not a student
22 athlete. When JAYLEN refused, Joel and LLOYD threatened him with detention.
23 Additionally, LLOYD threatened JAYLEN with suspension. LLOYD asked
24 JAYLEN if he wanted to graduate in a threatening way. JAYLEN told her to check his
25 grades and then tell him he wasn't going to graduate. LLOYD said, "I don't have to
26 check your grades", implying that she could punish him by stopping his graduation.

27 101. On or about August 2023, JAYLEN walked into teacher, JOHN ALLEN's
28 ("ALLEN") room with his sweatshirt hoodie up over his head. ALLEN said, "take

1 your hoodie off, hoodlum”. JAYLEN repeatedly asked ALLEN to call him by his
2 name. ALLEN called JAYLEN “Hoodlum” three more times in front of the class.²⁰

3 On or about September 2023, JAYLEN asked ALLEN a question about an
4 assignment. ALLEN did not answer JAYLEN’s question and told him in front of the
5 class that he, JAYLEN, “only asks dumb questions”.

6 102. BURNUM used the N word on a black student.

7 103. LLOYD tells JAYLEN to "move to another school."

8 104. BURNUM, LLOYD, and ALLEN did not disparage, ridiculale, offend,
9 scrutinize, or threaten non-black students.

10 105. As a direct and legal result of the defendants actions, JAYLEN was harmed,
11 and is entitled to economic and non economic damages in excess of the minimum
12 jurisdiction of this court, to attorneys fees, litigation costs, fines, penalties, interest and
13 such other relief as the court deems just and proper.

14
15 **FIFTH CLAIM FOR RELIEF**
16 **NEGLIGENT SUPERVISION, TRAINING, HIRING, AND RETENTION**
17 **AGAINST PIERCE**

18 106. Plaintiff re-alleges and incorporates by reference the allegations contained in
19 this complaint, as though fully set forth herein.

20 107. PIERCE had a duty to hire, supervise, train, and retain employees and/or agents
21 so that employees and/or agents refrain from the conduct and/or omissions alleged
22 herein.

23 108. These general duties of reasonable care and due care owed to JAYLEN by
24 PIERCE and each them including DOES 1-10, include but are not limited to the
25 following specific obligations:

- 26 a. To properly and reasonably hire, supervise, train, retain, investigate,
27 monitor, evaluate, and discipline each person (i) who was responsible for
28 providing education to JAYLEN; (ii) who was responsible for a

1 nondiscriminatory educational environment; (iii) who was responsible for
2 not discriminating against JAYLEN;

3 b. To properly and adequately hire, supervise, train, retain, investigate,
4 monitor, evaluate, and discipline their employees, agents, and/or law
5 school officials to ensure that those employees/agents/officers act at all
6 times in the public interest and in conformance with law;

7 c. To make, enforce, and at all times act in conformance with policies
8 and customs that are lawful and protective of individual rights, including
9 Plaintiff's rights.

10 d. To refrain from making, enforcing, and/or tolerating the wrongful
11 policies and customs set forth herein.

12 109. PIERCE breached this duty, causing the conduct alleged herein. Such breach
13 constituted negligent hiring, supervision, training, and retention under the laws of the
14 State of California.

15 110. As a direct and proximate result of Defendants' failure, JAYLEN injuries and
16 damages as alleged herein.

17

18 WHEREFORE, Plaintiff prays for the following:

19 1. Compensation for both economic and non-economic damages suffered
20 and to be suffered;

21 2. Legal and other expenses incurred by Plaintiff;

22 3. Compensatory damages and nominal damages caused by deprivation of
23 Plaintiff's constitutional rights;

24 4. Litigation costs;

25 5. Attorneys' fees, as allowed by statute;

26 6. Interest;

27 7. Civil Penalties as allowed by law.

28 8. Punitive damages (against the non-municipal Defendants only);

1 9. Any other relief or damages allowed by law, or statutes not set out above,
2 and such further relief as this Court deems just and proper at conclusion of trial.

3 Date: August 8, 2024

4 Respectfully Submitted,
5 Brad Gage Law, APC

6 By /s/ Milad Sadr
7 Bradley C. Gage
8 Milad Sadr
9 Attorneys for Plaintiffs

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**CLAIM FOR DAMAGES AGAINST
PUBLIC ENTITY
[Government Code § 910 and § 910.2]**

1. NAME OF CLAIMANT: Michael Escabosa for minor son, (Minor Doe)

2. POST OFFICE ADDRESS: 306 5th St. College City, CA 95912

3. POST OFFICE ADDRESS TO WHICH PERSON PRESENTING THE CLAIM DESIRES NOTICES TO BE SENT: 468 W. 5th Street Ste. 104, San Bernardino, CA 92401

4. DATE OF INJURY, DAMAGE, LOSS OR OBLIGATION: See attached addendum

5. LOCATION WHERE THE INJURY, DAMAGE, LOSS OR OBLIGATION OCCURRED:
See attached addendum

6. THE GENERAL DESCRIPTION OF THE INJURY, DAMAGE, LOSS OR OBLIGATION: See attached addendum

(Attach Additional Pages, If necessary)

7. NAME(S) OF PUBLIC EMPLOYEE(S) WHO CAUSED INJURY, DAMAGE OR LOSS:

8. DESCRIPTION OF THE ACTIONS OR CONDUCT OF EMPLOYEE(S) WHO CAUSED THE INJURY, DAMAGE OR LOSS:

See attached addendum

(Attach Additional Pages, If necessary)

9. NAMES/ADDRESSES/TELEPHONE NUMBERS OF ANY WITNESSES:

See attached addendum

10. TOTAL AMOUNT CLAIM: \$ In excess of \$25,000

District Form No. _____

Page 1

11. BASIS FOR COMPUTATION AMOUNT OF CLAIM:

Current Medical Expenses: \$ _____

Future Medical Expenses: \$ _____

Wage Loss: \$ _____

Damage to Personal Property: \$ _____

General Damages: \$ In excess of \$25,000

Other Damages (Describe): \$ _____

(Attach Copies of Medical Bills/Estimates for Property Damages/Proof of Loss)

12. IF CLAIMANT IS A MINOR (Under age 18-years):

Name of Parent/Legal Guardian: Michael Escabosa

Address of Parent/Legal Guardian: 306 5th St. College City, CA 95912

Parent/Legal Guardian Telephone Number: 530-383-1580

13. SUPPLEMENTAL INFORMATION:

Claimant's Drivers License No. _____ Social Security # _____

Claimant's Date of Birth: [REDACTED] 2006

Law Enforcement/Public Agency Report No. _____ Date: _____

14. ATTORNEY FOR CLAIMANT:

Name: Allison Bracy, Channing Hawkins SBN: _____

Address: 468 W. 5th Street Ste. 104, San Bernardino, CA 92401

Telephone Number: 909-521-7477

Signature of Claimant	Date	Telephone No.
Attorney for Claimant	11/02/2023	909-521-7477
(Relationship of Signer, If not the Claimant)	Date	Telephone No.

NOTICES

A Claim relating to a cause of action for death or for injury to person or to personal property or to growing crops must be presented to the public entity, in the manner provided for in **Government Code § 915, et seq.**, not later than six-months after the accrual of the cause of action.

A Claim relating to any other cause of action shall be presented to the public entity as provided in **Government Code § 915, et seq.**, not later than one-year after the accrual of the cause of action. [**Government Code § 911.2**]

A person is required by law, under **Government Code § 910.4(a)**, to use this prescribed Claim Form, in order that his or her claim is deemed to be in conformity with **Government Code § 910 and § 910.2**. A claim may be returned to the person, if it is not presented using this Claim Form. Any claim returned to a person may be resubmitted using the appropriate form.

Q2: Date	Q2: Time	Q2: Location	Q3: Description	Q4: Act or Omission	Q5: Name of Employee	Q8: Witnesses	Q9: Public Agency
9/21/2023	During school	School Campus	Police came to the school to interview Minor Doe about Scott Burnum slamming his head on the desk during his sophomore year. Principle Friel did not notify Mr. Escabosa that his child was being questioned by the police	Failure to notify parent of police interrogation	Don Friel	Minor Doe, Michael Escabosa Officer Kenutson	Colusa County Sherriff Dept.
9/27/2023	1:15 p.m.	Mr. Allen's Class	Minor Doe asked his teacher Mr. Allen about his lesson on an assignment. Mr. Allen did not answer Minor Doe's question and told him in front of the class that he, Minor Doe, "only asks dumb questions".	Intentionally humiliating a student with a disability.	John Allen	Students in the class.	
Mid August 2023	Class time	Burnum's Class	Scott Burnum used the racial slur, "Nigger" during class.		Scott Burnum	Carol Geyer, Superintendent	
8/29/2023	Class time	Mr. Allen's Consumer Math class	Minor Doe walked into Mr. Allen's room (consumer math) with his sweatshirt hoodie up over his head. Mr. Allen said, "take your hoodie off, hoodlum". Minor Doe repeatedly asked Mr. Allen to call him by his name. Allen called Minor Doe "Hoodlum"	Referring to Minor Doe by a derogatory and racially charged name.	John Allen	Students in Minor Doe's Consumer Math Class	N/A

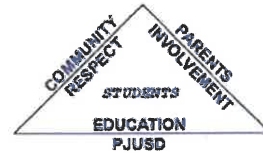
			three more times in front of the class.				
8/24/2023		Online Portal	Due to the harassment Minor Doe was suffering, Mr. Escabosa sent an email through the school's portal notifying the school that Minor Doe suffered from PTSD and ADHD (disability) and instructed the school not to engage him in a disciplinary manner unless he actually broke rule. After this, VP Lloyd increased her targeting of Minor Doe with threats of disciplinary actions without cause.	Harassing Minor Doe based on his race and disability.	Vice Principle Emily Lloyd, Carol Geyer,	Superintendent John Friel.	
8/22/2023	Class time	Mr. Joel's Class	Mr. Joel demanded that Minor Doe complete a student athlete grade check form when he is not a student athlete. When Minor Doe refused, Mr. Joel and Vice Principle Lloyd threatened him with detention. Additionally, Mrs. Lloyd threatened Minor Doe with suspension.	Harassing and threatening student with detention suspension without cause	Mr. Joel Emily Lloyd	Students in Mr. Joel's class.	
8/15/2023	Lunch	Parking lot	Minor Doe was talking to another student on campus who was sitting in their car in the parking lot on campus. Mrs. Lloyd approached and	Targeting, harassing and intimidating a student based on his race (African	Emily Lloyd		

			questioned Minor Doe (singled him out of three people, one Hispanic and one Caucasian male) about what he was doing. She told him that he needed to get back on campus even though he was on campus. At that point, Mrs. Lloyd continued stare at Minor Doe until he went to get his lunch from his truck. She followed him to his truck and then into the school where he eats his lunch.	American and Hispanic)			
2022/2023	Unk	Campus	Minor Doe asked a teacher, Mrs. Sweet, why a particular girl (white) in the school was allowed to roam around the campus during class and not be referred for discipline when he would be in trouble and the teacher responded,	Racial Discrimination	Erin Sweet		

			“Because you’re Black. Come on, you know that”.				
2021/2022	Class time	Burnum’s World History Class	<p>Minor Doe was on time to class Scott Burnum grabbed him by his arm. After Minor Doe sat down, Burnum grabbed Minor Doe’s head and slammed it on the desk, causing him to bleed. After class, Burnum followed him to the hallway asking if Minor Doe wanted Burnum to compensate him for the injury.</p> <p>That evening, Burnum called Mr. Escabosa and admitted that things got out of control and Minor Doe had marks on his face. Mr. Escabosa reported this incident to the principle, Don Friel initially when it happened but nothing was done.</p> <p>After Mr. Escabosa filed a subsequent complaint,</p>	Battery on a student.	Scott Burnum		Police came to school on 9/21/2023 to interview Minor Doe about this battery.

			Principle Friel did an investigation and substantiated the battery on Minor Doe. Mr. Burnum is still employed by the school.				
April 30, 2023	Class time	Hidalgo's classroom.	When the students were going to work at the school farm. Minor Doe complained that it was hot, and the teacher (Cesar Hidalgo) told him, "You should be used to the heat because you're black".	Race Discrimination	Caesar Hidalgo		

Pierce Joint Unified School District



P.O. Box 239 • Arbutle CA 95912 • (530) 476-2892 • Fax (530) 476-2289

Carol Geyer, Superintendent

February 16, 2024

Ms. Allison Bracy
Bracy Hawkins Law
468 West 5th Street, Suite 104
San Bernadino, CA 92401

Re: Escabosa/Rejection of Claim

Dear Ms. Bracy:

By this letter, notice is hereby given that the two claims you presented to the Pierce Joint Unified School District (“District”) on behalf of Michael Escabosa on January 31, 2024, seeking damages for alleged personal injury, was rejected in its entirety by our Board of Trustees on February 15, 2024.

WARNING

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code section 945.6.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult or retain an attorney, you should do so immediately.

Sincerely,

Carol Geyer
Superintendent