

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

AMOS WINBUSH III and TIFFANY WINBUSH,  
individually and on behalf of their minor children,  
K.W. and S.J.W.,

Plaintiffs,

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION;  
BOARD OF EDUCATION OF THE CITY SCHOOL  
DISTRICT OF THE CITY OF NEW YORK;  
NEW YORK CITY COMMUNITY SCHOOL  
DISTRICT 2; MAGGIE SIENA, Principal of Peck Slip  
School (in her individual capacity); CASEY COREY,  
Assistant Principal of Peck Slip School (in her  
individual capacity),

Defendants.

**COMPLAINT**

**Jury Trial Demanded**

Case No. 23-cv-01320

Plaintiffs AMOS WINBUSH III and TIFFANY WINBUSH, individually and on behalf of their minor children, K.W. and S.J.W., through their attorneys, HAMILTON CLARKE, LLP, allege as follows:

**PRELIMINARY STATEMENT**

1. Amos and Tiffany Winbush's children, K.W. and S.J.W., have endured unimaginable racism, physical and emotional trauma, violence, bullying, and other dehumanizing treatment at their New York City public elementary school known as Peck Slip.

2. The Winbushes are one of the few Black families at Peck Slip, and oftentimes, K.W. and S.J.W. are the only Black students in their classes.

3. Teachers and school officials have fostered, enabled, and perpetuated a racially hostile environment at Peck Slip, and that environment has emboldened students to harass and

abuse the Winbush children physically and emotionally, to ostracize and insult K.W.'s appearance and hair texture, and to violently assault and threaten to kill S.J.W. on several occasions.

4. School officials have allowed the abuse to continue semester after semester, even though Amos and Tiffany Winbush have complained ceaselessly. For years, the Winbushes have begged school administrators to intercede to stop the harassment and abuse their children are suffering, but their cries have consistently fallen on deaf ears.

5. In the past month, a student spat in S.J.W.'s face, even though Peck Slip Principal Maggie Siena and Assistant Principal Casey Corey had told the Winbushes they would keep the child away from S.J.W. following an earlier incident in which the same student ripped S.J.W.'s shirt and threatened to kill him.

6. It is unimaginably painful for a parent to know that their child must attend a school where they will be exposed to racism and daily threats. This persistent abuse, and school officials' indifference, has had a demoralizing impact on the Winbush family.

7. K.W. and S.J.W. – who are now 10 and 5 years old – have suffered social isolation, depression, and severe damage to their self-esteem. K.W. has come home from school and asked Amos and Tiffany why “no one likes [her]” and “what’s wrong” with her? She has told her parents she “did not want to feel different” and wished she had blonde hair.

8. K.W. is now in therapy to help her cope with the trauma and psychological injury she has suffered at Peck Slip, and the Winbushes have had to seek medical care for S.J.W. and provide him extra emotional support following the vicious assaults on him at school.

9. The Winbushes have tried to address issues of racism and harassment at Peck Slip, but at each step, school administrators have thwarted their efforts. For instance, Amos Winbush personally created a Diversity and Inclusion Committee, but after its first meeting, Principal Siena

and Peck Slip Guidance Counselor Rebecca Newfield told him: “we need to “pull back” and “tone down” discussions of racism and bigotry because talking about race, racism, and implicit bias “made the white teachers and white parents feel uncomfortable.” After that, school administrators diluted the Committee’s work and eventually dissolved it completely.

10. Peck Slip Principal Siena has made public statements acknowledging her own personal bias. At a professional development event, she told the gathered teachers that she felt “uncomfortable around black women.” And during a school leadership meeting when Mr. Winbush brought up implicit bias and racism, Principal Siena publicly admonished him that “everyone needed to move on.”

11. Similar statements came from even higher levels of administration. Bonnie Laboy, who was then the Superintendent of Community School District 2, which oversees Peck Slip, told Amos Winbush, during a meeting about the ongoing issues of racism and bullying that K.W. was facing, “Amos, you are very ‘articulate’ and that can be scary to a lot of people.” When Mr. Winbush responded that Superintendent Laboy’s statement was racially inappropriate, she rebuffed: “I’m not racist, I’m Latina myself.”

12. Time and again, Peck Slip and District 2 officials have said they were addressing racism at Peck Slip and taking steps to protect the Winbush children, while acknowledging that more needed to be done to protect the Winbush children. But time and again, school and district administrators failed to take necessary steps to end the racially hostile environment that continues to plague Peck Slip and harm the Winbush children.

13. Instead of responding to the Winbushes’ complaints with concern or compassion – or any meaningful plan to address the hostile environment at Peck Slip – school officials have decided to take incredible steps to retaliate against the Winbush family.

14. Recently, after years of inaction by school administrators, the Winbushes retained a law firm to assist them, and their attorneys wrote to Principal Siena, Assistant Principal Corey, the New York City Department of Education’s General Counsel, and other school administrators to request a meeting to discuss the “ongoing harassment, physical violence, and racial discrimination that the Winbush children have suffered at the Peck Slip School.” No one responded to the Winbushes’ attorneys. Instead, less than forty-eight hours after the letter was sent, K.W.’s teacher admonished the class: “Don’t go home and tell your parents what happens in the classroom because it paints the teachers in a bad light.”

15. Days later, Principal Siena and Assistant Principal Corey pulled K.W. out of class, brought her to Principal Siena’s office, closed the door, and reprimanded K.W. for discussing with her parents the ongoing issues of racism and harassment that she was experiencing at Peck Slip. In a shocking use of historically racist language, Principal Siena and Assistant Principal Corey told K.W. that her father was “angry” – simply because he had complained about the ongoing racism, bullying, and harassment that his children faced at Peck Slip. Principal Siena tried to discredit K.W. and dissuade her from pursuing further complaints by telling K.W. that her experiences were “hard to believe” because they were different from the experiences of other students, who are predominately white. Principal Siena also dismissed the problems K.W. was experiencing as merely “peer conflict.”

16. Principal Siena’s response to the Winbushes’ complaints fits a pattern. In 2018, a group of parents wrote to school officials complaining about some of these very same behaviors:

“A traumatic incident happened on school grounds where a child was being choked by a jump rope by another first grader and was freed by other first graders. All along, there were no adults around. This all happened with no supervision around.”

“Several incidents have happened where kids have tried to seriously hurt other kids. Bullied kids to tears. And the response parents heard was ‘it wasn’t that serious.’”

“Children have been pulled in to speak to you on disputes happening in their class, . . . without parents being involved.” “It is extremely intimidating for a child to be pulled into the principal’s office to be questioned about any matter. Unless it is an unavoidable/extreme circumstance, parents should be present with the child . . . .”

17. Long after school and district officials received this letter, Peck Slip still maintains a dangerous and hostile environment, and Principal Siena continues to behave in ways that harm Peck Slip students.

18. The Winbushes have exhausted all possible avenues for redress through school officials and have been met with resistance, hollow promises of change, and even outright bigotry. They bring this action to ensure that the environment of racism, harassment, and physical and emotional abuse that their children have been subjected to is changed.

19. Tragically, the Winbush family’s experience is not exceptional. New York City has an abysmal history of tolerating racism in its public schools. Instead of fostering equality and integration, the Department of Education has enabled a racially hostile environment within a segregated school system that is rife with racist acts of violence, bullying, and harassment.

20. More than seventy years after segregated schools were declared “inherently unequal” and unconstitutional,<sup>1</sup> New York City schools remain overwhelmingly segregated.<sup>2</sup> Indeed, New York – a purported bastion of “blue state” progressivism – has the most segregated schools in the country.<sup>3</sup>

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<sup>1</sup> *Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

<sup>2</sup> Eliza Shapiro, *Segregation Has Been the Story of New York City’s Schools for 50 Years*, N.Y. Times (Mar. 26, 2019), available at <https://www.nytimes.com/2019/03/26/nyregion/school-segregation-new-york.html>.

<sup>3</sup> John Kucsera and Gary Orfield, UCLA Civil Rights Project, *New York State’s Extreme School Segregation: Inequality, Inaction and a Damaged Future* (Mar. 2014) (“UCLA Civil Rights Project 2014 Report”), available at <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/ny-norflot-report-placeholder/Kucsera-New-York-Extreme-Segregation-2014.pdf>; Danielle Cohen, UCLA Civil Rights Project, *NYC School Segregation Report Card Still Last, Action Needed Now* (June 2021) (“UCLA Civil Right Project 2021 Report”), available at [https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/nyc-school-segregation-report-card-still-last-action-needed-now/NYC\\_6-09-final-for-post.pdf](https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/nyc-school-segregation-report-card-still-last-action-needed-now/NYC_6-09-final-for-post.pdf).

21. The racially hostile environment in New York City’s public schools causes real and substantial harms. According to the American Academy of Pediatrics (AAP): “Racism is a core social determinant of health that is a driver of health inequities.”<sup>4</sup> The AAP has concluded that a school’s “racial climate” – referring to “norms, curricula, and interactions around race and diversity within the school setting” – “impacts educational outcomes for students.”

22. Every day, New York City public school students suffer the heartbreaking wounds of institutionalized racism. The Winbush children are, sadly, no exception.

### **JURISDICTION AND VENUE**

23. Jurisdiction is conferred on this Court under 28 U.S.C. §§ 1331, 1343(a)(3) and (4), as this action seeks redress for the violation of Plaintiffs’ constitutional and civil rights.

24. Plaintiffs’ claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202; Rule 57 of the Federal Rules of Civil Procedure; and the Court’s inherent equitable authority.

25. Venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1391(b)(2), as a substantial part of the events alleged herein were committed within this district.

### **JURY TRIAL DEMAND**

26. Plaintiffs demand a trial by jury in this action on each and every one of their claims for which a jury trial is legally available.

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<sup>4</sup> Maria Trent, MD, *et al.*, “The Impact of Racism on Child and Adolescent Health,” *Pediatrics*, Vol. 144, Issue 2 (Aug. 2019), available at <https://publications.aap.org/pediatrics/article/144/2/e20191765/38466/The-Impact-of-Racism-on-Child-and-Adolescent>.

## THE PARTIES

27. Plaintiffs AMOS WINBUSH III and TIFFANY WINBUSH are citizens of the United States and of the State of New York. They are the parents and natural guardians of their minor children, K.W. and S.J.W.

28. Amos Winbush III is an accomplished innovator, having founded five influential global technology companies since 2007, and is currently the founder and CEO of a FinTech startup.

29. Tiffany Winbush is the Vice President of Social Media at a global financial services firm and a former candidate for City Council in the district that covers Lower Manhattan.

30. The Winbushes are long-time residents and active community members in lower Manhattan.

31. K.W. is 10 years old. She is currently enrolled in New York City Public Schools and attends the Peck Slip school, also known as Public School 343.

32. S.J.W. is 5 years old. He is currently enrolled in New York City Public Schools and attends Peck Slip.

33. Amos Winbush III, Tiffany Winbush, K.W., and S.J.W. are referred to collectively herein as, “Plaintiffs” or “the Winbushes.”

34. BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK (“BOE”) is a public corporate entity created and authorized under the laws of the State of New York to operate the City School District of the City of New York.

35. Defendant NEW YORK CITY DEPARTMENT OF EDUCATION (“DOE”) acts on behalf of the BOE to operate and govern the City School District of the City of New York.

36. The Chancellor of the DOE (“the Chancellor”) is the chief executive officer for the City School District of the City of New York and is responsible for establishing and implementing

DOE policies. New York Education Law § 2590-H requires the Chancellor to exercise his powers and duties “to promote an equal educational opportunity for all students in the schools of the city district.”

37. Defendant NEW YORK CITY COMMUNITY SCHOOL DISTRICT 2 (“District 2”) is a public corporate entity created and authorized under the laws of the State of New York, including New York Education Law Article 52-A.

38. District 2 is authorized by law to enforce and maintain the policies and regulations of the DOE and the Chancellor. District 2 is also authorized by law to create district-wide policies to further regulations of the DOE and the Chancellor.

39. Peck Slip School, also known as P.S. 343, is a public school in District 2. It is located in lower Manhattan, a few blocks from City Hall.

40. New York City Community School District Superintendents are responsible for overseeing and directing operations of the district schools and have the duty to appoint, assign, promote, and discharge all district employees; appoint supervisory personnel; appoint principals and assistant principals; maintain discipline in district schools; employ or retain counsel to be the district’s attorney and counsel; and take all necessary steps to ensure the integrity of community district operations, consistent with standards, policies, objectives, and regulations of the city district.

41. The Chancellor and the District 2 Superintendent are jointly responsible for establishing policies and procedures that must be followed by District 2 employees, including the staff of Peck Slip School, and for ensuring that District 2 employees adhere to regulations of the DOE and governing federal, state, and local laws.



42. Upon information and belief, the BOE, the DOE, and District 2 receive federal financial assistance and are each a “program” and “program or activity” as defined by 42 U.S.C. § 2000d-4a.

43. Defendant MAGGIE SIENA is the current Principal of Peck Slip School. She is employed by the BOE, the DOE, and/or District 2. Defendant Sienna is sued in her individual capacity.

44. New York Education Law § 2590-I makes public school principals “the administrative and instructional leader of the school” with responsibility “for the day to day operation of the school.” Section 2590-I also makes public school principals responsible to “promote an equal educational opportunity for students in the school.”

45. At all relevant times herein, Defendant Siena has acted under color of law and in the course and scope of her duties and authority as an officer, agent, servant, and employee of the DOE, the BOE, and/or District 2.

46. Defendant Siena has authority to establish policies and procedures at Peck Slip school.

47. Defendant Siena is responsible for enforcing and applying regulations of the DOE and governing federal, state, and local laws to ensure the staff of Peck Slip School adhere to such regulations and laws.

48. Defendant CASEY COREY is the current Assistant Principal at Peck Slip school. She is employed by the BOE, the DOE, and/or District 2. Defendant Corey is sued in her individual capacity.

49. At all relevant times herein, Defendant Corey acted under color of law and in the course and scope of her duties and authority as an officer, agent, servant, and employee of the BOE, the DOE, and/or District 2.

50. Through their actions and inactions described herein, Defendants Siena and Corey violated Plaintiffs' clearly established constitutional and statutory rights.

## **STATEMENT OF FACTS**

### **I. The Winbush Family's Experience at Peck Slip School**

#### **a. K.W.'s experience**

##### **i. Pre-K (ages 4 to 5)**

51. In the fall of 2016, Amos and Tiffany Winbush enrolled their daughter K.W. in the Pre-K program at Peck Slip school.

52. K.W. was the only Black student in her Pre-K class and one of two Black students in all of the Pre-K classes at Peck Slip.

53. Early in the 2016-2017 school year, a white student told K.W. that her teeth stink and that they were brown because she was brown.

54. K.W.'s teacher at the time, Lyndell Locker, overheard the student's racist comments and informed Mr. and Ms. Winbush.

55. Ms. Locker is a Black woman, and was one of two Black teachers at Peck Slip.

56. Mr. Winbush told Peck Slip Principal Maggie Siena about the incident and insisted that the school form a Diversity and Inclusion Committee.

57. School administrators agreed to form the committee, but this was a superficial and insincere effort as school administrators actively limited the committee's efforts.

58. Peck Slip administrators took no steps to protect K.W. from experiencing further acts of racism, harassment, and violence.

59. In December 2016, before the Diversity and Inclusion Committee’s first meeting, the same student who had made racist comments to K.W., taunted K.W. that he wanted her “to have flowers in her hair so she could smell like flowers,” implying that her hair – which was different from the hair of every other child in the class – smelled bad, which, of course, was untrue.

60. Mr. Winbush reported this incident to Principal Siena, but she did not acknowledge or address it.

61. A month later, in January 2017, two white students attacked K.W., yelled at her, and struck her in the face.

62. K.W.’s teacher told Mr. Winbush that these two students had been aggressive with K.W. on prior occasions, that they had told K.W. she could not play with them or other students, and that the two students would pull away other children who tried to play with K.W.

63. Mr. Winbush complained about the ongoing racism and isolation that K.W. was suffering, but Peck Slip administration took no steps to protect K.W. from further racism, bullying, and harassment.

**ii. Kindergarten (ages 5 to 6)**

64. The following school year, during a School Leadership Team meeting held in October 2017, Mr. Winbush tried to address the topic of bias and racism at Peck Slip, but Principal Siena cut him off and declared in front of the gathered teachers and parents that there would be no discussion of racism, and that everyone needed to “move on.”

65. Principal Siena has publicly acknowledged her own racial bias.

66. During a school professional development event, Principal Siena told a group of teachers: “I feel uncomfortable around black women” and “that’s my bias that I’m learning to deal with.”

67. In January 2018, while preparing for a forum organized by the Diversity and Inclusion Committee, Principal Siena and Peck Slip Guidance Counselor Rebecca Newfield told Mr. Winbush, in sum and substance: “we need to pull back” and “tone down” discussions of racism and bigotry.

68. Principal Siena went on to say: “the white teachers and parents feel uncomfortable talking about race and racism and our attendance will be low if we continue to be so up front.” Guidance Counselor Newfield expressed her agreement with this statement.

69. The following month, in February 2018, Mr. Winbush filed a complaint through the Department of Education’s online portal about the racism K.W. was experiencing at Peck Slip and the school’s failure to meaningfully address it.

70. District 2 Family Leadership Coordinator Jennifer Greenblatt contacted Mr. Winbush about his complaint.

71. After listening to Mr. Winbush’s description of the incidents of racism and harassment that K.W. had experienced at Peck Slip, Ms. Greenblatt, who is white, told Mr. Winbush, “that does not sound like racism to me.”

72. When Mr. Winbush asked to speak to Ms. Greenblatt’s supervisor, she said that he could not and refused to connect him with the Chancellor’s office.

73. Mr. Winbush attempted to ask what other options were available to address the situation at Peck Slip, but Ms. Greenblatt abruptly hung up the phone.

74. Also in February 2018, Mr. Winbush proposed during a meeting of the Diversity and Inclusion Committee to survey the teachers about joining the Committee, but Principal Siena rejected the proposal and disparaged the idea.

75. Understanding that Principal Siena was uninterested in Mr. Winbush's efforts and the efforts of the Diversity and Inclusion Committee to change the school's racially hostile environment, Mr. Winbush resigned from the committee in March 2018.

76. Shortly after that, Principal Siena dissolved the Diversity and Inclusion Committee.

77. That same semester, a white female student told K.W. that, "she needed to take a bath, shower and scrub her skin really hard because her skin is brown and that's dirty."

78. The student also told K.W. that, "after you shower, you will be white and clean like me."

79. K.W. informed Peck Slip officials about this incident, but they did not inform the Winbushes about it; the Winbushes only learned about it from K.W. However, when the Winbushes talked to school administrators about the incident, they denied they knew about it.

80. Mr. Winbush reached out to Principal Siena to express the Winbushes' immediate concerns with the ongoing racism K.W. was experiencing in school and the school's lack of communication with the Winbushes about the various racist incidents that K.W. had suffered.

81. Mr. Winbush later contacted City Councilwoman Margaret S. Chin and New York State Senator Kevin Parker. Upon information and belief, Councilwoman Chin and Senator Parker brought these issues to the attention of DOE officials in or around April 2018.

82. During that same time period, a white male student told K.W. that her skin looked like the color of "pooh."

83. Mr. Winbush contacted Principal Siena about this latest incident and the lack of leadership in allowing this behavior to continue.

84. Principal Siena acknowledged that more needed to be done to curb the behavior, but no efforts were made.

85. After Councilwoman Chin and Senator Parker contacted the DOE, District 2 Superintendent Bonnie Laboy agreed to meet with Mr. Winbush to discuss the racism, harassment, and emotional and mental abuse that K.W. was experiencing at Peck Slip.

86. During the May 2, 2018 meeting, Superintendent Laboy agreed that more needed to be done and a follow-up meeting was scheduled.

87. During a follow-up meeting on May 17, 2018, between Mr. Winbush, Superintendent Laboy and Principal Siena, instead of addressing the substance of Mr. Winbush's serious and legitimate concerns, Superintendent Laboy demeaned Mr. Winbush with a common racial micro-aggression, telling him: "Amos, you are very 'articulate,' and that can be scary to a lot of people."

88. When Mr. Winbush told Superintendent Laboy that her statement was racially inappropriate, Superintendent Laboy said: "I'm not racist, I'm Latina myself."

89. Following that meeting, no steps were taken by school or district officials to stop the racism, harassment, and bullying that was being inflicted on K.W. at Peck Slip, and K.W. continued to experience racial abuse and harassment at school.

**iii. First Grade (ages 6 to 7)**

90. In the first grade, in April 2019, one of K.W.'s classmates called her a loser because "all brown people are losers."

91. A different classmate told K.W. that she could not sit at her table because she was brown.

92. Another student told K.W. that she could not play a game because her hair did not blow in the wind.

93. K.W. felt isolated, alone, and segregated in the classroom and at recess because of these incidents.

94. When K.W. told the recess monitor that other children were saying things about her skin color and running away from her, the school employee told K.W. that she just needed to “figure it out.”

95. The Winbushes spoke to K.W.’s teacher and school officials, including Principal Siena, about these incidents, but they were dismissive and shifted responsibility to K.W., a 6-year-old child, to solve the problem. They said that K.W. just needed to make friends and put herself out there.

**iv. Second Grade (ages 7 to 8)**

96. K.W. continued to face racial harassment in the second grade (2019-2020 school year).

97. During one incident, a white student took Play-Doh that K.W. had brought from home and was playing with at school. After Mr. Winbush spoke to K.W.’s teacher about the white student taking K.W.’s Play-Doh from her, the teacher forced K.W. to write a letter of apology to the white student.

98. In another incident that took place in December 2019, four white students spat food in K.W.’s face and down her shirt; and during recess, the same four girls took K.W.’s coat and snatched her headband (during a day of freezing temperatures), and they spat food on K.W. again.

99. K.W. told an adult who was supposed to be supervising recess what happened, but no one did anything to address the situation.

100. Mr. Winbush contacted the new District 2 Superintendent, Donalda Chumney, and District 2 Executive Superintendent Marisol Rosales about these incidents.

101. Superintendent Chumney later emailed Mr. Winbush dismissing his complaints and K.W.'s experiences, saying she had visited the school and had observed the students "happily playing together." This is entirely inconsistent with K.W.'s daily experience of isolation and harassment from other students.

102. Superintendent Chumney and Executive Superintendent Rosales took no steps to address the situation at Peck Slip.

103. Days later, K.W. was attacked by the same four white students, who kicked and hit K.W. in her legs and stomach during recess.

104. When the incident was reported to Principal Siena, Principal Siena made the girls who assaulted K.W. apologize, but also, inexplicably, made K.W. apologize to the white students who had assaulted her.

105. On January 15, 2020, Mr. Winbush emailed Principal Siena about the ongoing harassment and bullying inflicted on K.W.

106. Mr. Winbush explained that the inaction and unresponsiveness of school officials were causing K.W. to be isolated from her classmates, made her feel unsafe at school, and discouraged her from reporting similar incidents to adults in the school.

107. Principal Siena took no meaningful steps to respond to Mr. Winbush's complaint and again dismissed his pleas to protect K.W. from what had become regular harassment, racism, bullying, physical abuse, and psychological terror.

108. This same week in January 2020, three white students gave K.W. a racist picture they had drawn of her with a big butt.

109. Mrs. Winbush informed Principal Siena about this incident on January 22, 2020.



110. The following week, after a white male student taunted K.W., instead of addressing the issue with the white student, Principal Siena pulled K.W. out of the classroom, spoke to her in an aggressive manner inches from her face and when K.W. attempted to tell Principal Siena that she was the one who was bullied again, Principal Siena refused listen to K.W. and walked away, leaving K.W. standing alone in the hallway.

111. Upon information and belief, Principal Siena did not make the student who was taunting K.W. leave the classroom to discuss the incident in the hallway.

112. Principal Siena's actions have made K.W. feel that she is being discriminated against.

113. On January 28, 2020, the Winbushes sent an email about the incident to Principal Siena, District 2 Superintendent Chumney, and District 2 Executive Superintendent Rosales.

114. The email requested that Principal Siena stop communicating directly with K.W. because of the retaliation against K.W. that followed the Winbushes' DOE complaint.

**v. Third and Fourth Grades (ages 8 to 10)**

115. The culture of bullying continued in third grade when K.W.'s classes were held online during the pandemic.

116. White students regularly told K.W. that she could not join their breakout rooms and that her ideas did not matter.

117. In response, K.W.'s teacher closed the free-time breakout rooms for all students, which led to students telling K.W. that it was her fault they could not gather in free-time breakout rooms.

118. In March 2022, during fourth grade, the Winbushes attended parent-teacher conferences and explained to K.W.'s teacher that K.W. was being isolated by her classmates and had expressed feeling sad because other students would not let her join them in group activities.

**vi. Fifth Grade (age 10)**

119. K.W., now in fifth grade, continues to experience racism, bullying, and isolation at Peck Slip.

120. Early in the school year, K.W.'s teacher assigned the class a project on slavery and K.W.'s teacher told her that she needed to tone down her essay on the horrific conditions and hardships experienced by enslaved people. During class discussions, K.W.'s teacher said that while slavery was horrible, enslaved people still had a life and could work and have families. K.W.'s teacher also supported statements by students that "slaves" who revolted against their "masters" deserved to be punished; and the teacher herself said that "slaves" were wrong to damage property of enslavers.

121. K.W. spoke up to say that slavery was inherently wrong, and that it is inappropriate and insulting to call enslaved people "slaves," because they were real people, with dreams, hopes, and a soul crushing desire to be free. When students continued to say "slaves" and one student told K.W. that slaves were "dumb," K.W.'s teacher did nothing to address the problem until the Winbushes contacted her.

122. K.W. expressed to her parents how frustrated and disappointed she was that her teacher had justified the enslavers' harsh treatment of enslaved people when they "aggressively revolted" and had supported the assertion that enslaved people were wrong to damage property of enslavers.

123. K.W.'s teacher's statements created an environment in which the experiences of enslaved people did not matter, and the resistance of enslaved people to the institution of slavery was considered bad.

124. Recently, a white classmate told K.W. that if she wanted to play with her, K.W. would have to play as her assistant.

125. In January 2023, the Winbushes emailed K.W.'s teacher and Principal Siena regarding a student who had exhibited toxic behavior towards K.W. The Winbushes explained that this student had yelled at and taunted K.W., kicked and pushed her, turned other classmates against K.W., and followed K.W. off campus to a local store and told K.W. to leave the store.

126. Assistant Principal Corey later emailed the Winbushes that school administrators found no evidence of bullying.

127. Although Principal Siena had told the Winbushes that the student harassing K.W. would be separated from her, K.W.'s teacher allowed the student to sit wherever she wanted, including next to K.W.

128. K.W. told her teacher she did not feel comfortable with the student sitting next to her, but K.W.'s teacher replied that it was "too difficult" to separate the student from K.W. and that K.W. should "just try it out for a couple of weeks."

129. School administrators took no steps to intervene and protect K.W. from further harassment by this student.

**b. S.J.W.'s experience**

**i. Pre-K (ages 4 to 5)**

130. In the fall of 2021, the Winbush family's youngest child, S.J.W., enrolled in Peck Slip's Pre-K class.

131. S.J.W. soon began to experience similar racial harassment and bullying as his older sister.

132. Because Peck Slip tolerated and otherwise remained indifferent to a culture of racialized abuse in the school, S.J.W. has suffered physical attacks, harassment, discrimination, and even death threats over the past two years.

133. At the beginning of S.J.W.'s first year at Peck Slip, in or around October 2021, a white student punched S.J.W. in the face.

134. Mr. Winbush complained to S.J.W.'s teacher and told her that he did not want the other student near S.J.W.

135. The teacher said she could not help Mr. Winbush, and school administrators took no action to intervene and prevent the white student from attacking S.J.W. again.

136. Later that month, the same student punched S.J.W. in the face again.

137. The classroom Paraprofessional/Teacher Assistant witnessed the attack and informed S.J.W.'s teacher.

138. The Winbushes again told S.J.W.'s teacher that they did not want the aggressive student near S.J.W.

139. Mr. Winbush also emailed S.J.W.'s teacher concerning the student and raising similar concerns he had heard from other parents.

140. S.J.W.'s teacher replied that she did not think there was malice on the part of the student who attacked S.J.W.

141. Two days later, Mr. Winbush emailed Peck Slip Assistant Principal Cassie Corey to complain that the aggressive white student had attacked S.J.W.

142. The following day, Mr. Winbush told Assistant Principal Corey that he did not want the student around S.J.W.

143. Assistant Principal Corey dismissed Mr. Winbush's concerns and defended the white student who had attacked S.J.W., admonishing Mr. Winbush, in sum and substance, "don't call him aggressive, we don't use that language."

144. School officials did not take steps to keep the aggressive student from being around S.J.W.

145. Later, the same aggressive student threatened to kill S.J.W.

146. Other parents have heard the student make similar statements, but school administrators failed to take necessary steps to protect S.J.W. and other students in the class.

147. Instead, school officials have punished S.J.W. while allowing the white student's misbehavior to go unpunished.

148. On one occasion, after the white student threw a toy at S.J.W., S.J.W.'s teacher punished S.J.W. because he threw the toy back; but the teacher did not discipline the white student who had instigated the incident.

149. This has become a theme in the school's response to the Winbushes' complaints: while the Winbush children must endure dehumanizing insults, being beaten and spat on, and having their lives threatened, if they attempt to defend themselves, they are punished while their attackers are protected, shielded from responsibility, and emboldened.

150. On another occasion, after the Winbushes raised their concerns about how other students were treating S.J.W. during the March 2022 parent-teacher conferences, S.J.W.'s teacher sent an email claiming they had discussed S.J.W.'s "language use within the classroom space," but that topic was never discussed at the conference.

151. As a direct result of the failure by school administrators, including Principal Siena and Assistant Principal Corey, to respond to these problems, in April 2022, the same white student attacked S.J.W. *again*, leaving a large bruise on S.J.W.'s leg and scratches on his face and back.

**ii. Kindergarten (5 to 6 years old)**

152. S.J.W.'s experience with physical assaults, harassment, and racism continued during kindergarten (the 2022-2023 school year).

153. On October 3, 2022, a second student threatened to kill S.J.W. and kicked him in the stomach.

154. After this situation, Mr. Winbush emailed the school that he and his wife wanted the child separated from S.J.W. and removed from the school for S.J.W.'s safety.

155. Assistant Principal Corey stated the best she could do was separate them, but she could not suspend the child, nor would she remove the child from the class.

156. Assistant Principal Corey minimized the incident in an email, writing that the student was just "being unkind" to S.J.W. and even though S.J.W. was kicked in his stomach, he was "not hurt at all."

157. In fact, S.J.W. *was* hurt. He complained of stomach pains and the Winbushes had to take him to a doctor, who recommended that S.J.W. receive "emotional support for assault."

158. In January 2023, the same student chased S.J.W., ripped his shirt, and told S.J.W. that she would kill him.

159. Principal Siena was made aware of these incidents, but did not ensure that this child would have no further contact with S.J.W.

160. Mr. Winbush emailed Principal Siena to express his concern that this student had not been separated from S.J.W. and Principal Siena responded that she would separate the children and inform the teachers and aides of the need to separate.

161. But when the Winbushes later visited S.J.W.'s class, they saw that the violent student was assigned a seat at the same table as S.J.W.

162. On January 31, 2023, the student who had previously threatened to kill S.J.W. spat in S.J.W.'s face without provocation.

163. School administrators, including Assistant Principal Corey, were aware of the earlier incidents but failed to take necessary steps to protect S.J.W.

164. By allowing students to assault S.J.W. without consequence, Peck Slip officials have emboldened them to continue assaulting and terrorizing S.J.W. knowing they could behave with impunity.

165. School administrators have routinely subjected S.J.W. to disparate treatment: incidents where S.J.W. was assaulted are deemed consistent with the school's "rough play policy," but when S.J.W. has defended himself, school administrators have deemed it "fighting" and punished him.

**c. Further retaliation by Peck Slip administrators**

166. In addition to the acts of retaliation noted above, as soon as it became clear that this lawsuit was likely, Principal Siena and Assistant Principal Corey undertook extraordinary acts to retaliate against the Winbush family, and K.W. in particular.

167. On February 1, 2023, attorneys for the Winbush family sent a letter to Principal Siena, Assistant Principal Corey, District 2 Superintendent Kelly McGuire, DOE General Counsel Liz Vladek, and others.

168. The letter complained about “the persistent failure of the Peck Slip School and District 2 to afford [the Winbush] children an educational opportunity free from discrimination, physical violence, intimidation, and harassment.”

169. The letter explained that “[t]he Winbushes have submitted complaint after complaint of incidents of discrimination and harassment, but the Peck Slip School and District 2 have failed to ensure the Winbush children receive a basic right to education in a place that is safe and free from discrimination.”

170. No one responded to the Winbushes’ attorneys’ letter.

171. Instead, less than 48 hours after the letter was sent, K.W.’s teacher, Jocelyn Chiu, admonished K.W.’s class, stating in sum and substance: “Don’t go home and tell your parents what happens in the classroom because it paints the teachers in a bad light.”

172. It was clear that Ms. Chiu’s comments were directed at the Winbushes’ complaints because she told K.W.’s class that emails from parents to school administrators forced her to do extra work for which she was not paid.

173. Ms. Chiu punished K.W.’s class by announcing that she was cancelling the upcoming farm trip and the class would not be permitted to have “out lunch” until further notice.

174. Perhaps more troubling than that episode, days later, Principal Siena and Assistant Principal Corey pulled K.W. out of class, brought her to Principal Siena’s office, closed the door, and reprimanded K.W. because of her father’s complaints about racial discrimination.



175. In a shocking use of historically racist language, Principal Siena and Assistant Principal Corey told K.W. that Mr. Winbush was “angry” because the Peck Slip administration had allowed a hostile environment of racist bullying and harassment to fester in the school.

176. Principal Siena also attempted to discredit K.W. and dissuade her from making further complaints by telling K.W. that her experiences at Peck Slip were “hard to believe” because they were different than the other students’ experiences.

**d. Psychological toll on the Winbush family**

177. The years of racism that the Winbush family has experienced during K.W.’s and S.J.W.’s attendance at Peck Slip, and the indifference and retaliation they have experienced from school officials in responding to their complaints, have left a serious toll on the Winbushes.

178. K.W. has experienced depression, self-doubt, severe anxiety, and a negative view of her own appearance, telling her parents that she wished she wasn’t “different” and that she had “yellow hair.”

179. K.W. is in therapy to help her cope with the trauma and psychological injury she has suffered as a result of her experiences at Peck Slip.

180. K.W.’s and S.J.W.’s self-esteem have been severely injured by the racially hostile environment they have experienced at Peck Slip.

181. S.J.W. has shown signs of anxiety and self-doubt, and has needed emotional support for the trauma he has suffered at Peck Slip.

182. Amos and Tiffany Winbush have suffered deep psychological injury from the racism they have personally endured from school officials, and from being forced to address the racism inflicted on their children.

183. The Winbushes have also suffered economic injury and other losses as a result of the racism and retaliation inflicted on them as described above.

## **II. Peck Slip and District 2 Administrators' Racial Bias and the DOE's Indifference to Complaints of Racism and Retaliation**

### **a. Racial bias of Peck Slip and District 2 administrators**

184. As noted above, Peck Slip and District 2 officials have made public statements revealing their own racial bias.

185. Peck Slip Principal Siena publicly acknowledged her own personal racial bias when she told a group of teachers during a school professional development event: "I feel uncomfortable around black women" and "that's my bias that I'm learning to deal with."

186. In January 2018, Principal Siena and Peck Slip Guidance Counselor Rebecca Newfield told Mr. Winbush, in sum and substance, "we need to pull back on how we discuss racism and bigotry." Principal Siena also told Mr. Winbush, and Guidance Counselor Newfield agreed, "the white teachers and parents feel uncomfortable talking about race and racism and our attendance will be low if we continue to be so up front."

187. During a meeting in May 2018, District 2 Superintendent Bonnie Laboy told Mr. Winbush: "Amos, you are very 'articulate,' and that can be scary to a lot of people." And when Mr. Winbush told Superintendent Laboy that her statement was racially inappropriate, Superintendent Laboy said: "I'm not racist, I'm Latina myself."

188. Consistent with her admitted bias against Black women, Principal Siena has perpetuated a racially hostile environment at Peck Slip School.

189. Over the past six-plus-years that the Winbush children have attended Peck Slip, every Black teacher has left.

190. One Black teacher, while she still worked at Peck Slip, complained to Principal Siena and Assistant Principal Corey about being accused (falsely) of having an “aggressive tone” and “aggressive walk” – accusations that invoke racialized caricatures of an “angry Black woman.”

191. Instead of addressing the teacher’s concerns, Principal Siena and Assistant Principal Corey wrote a misbehavior report that accused the teacher of using an improper tone.

**b. Peck Slip, District 2, and DOE officials’ indifference to complaints of racism, violence, and retaliation**

192. Peck Slip, District 2, and DOE administrators have ignored complaints of racism, harassment, violence, and retaliation at Peck Slip.

193. In June 2018, a group of Peck Slip parents sent a letter to Principal Siena about a “traumatic incident” at recess when “a child was being choked by a jump rope by another first grader and was freed by other first graders. All along, there were no adults around. This all happened with no supervision around.”

194. The letter complained that the parents: “are also extremely concerned after the incident and how things have been handled at the school recently. We have had several instances when concerns were brought up to you and/or the staff but were not addressed. We feel our concerns are not heard.”

195. The parents’ letter included five specific requests:

- a. First, the parents asked Principal Siena to ensure the “safety for our kids on school grounds at ALL times” and to “[h]ire more recess monitors.”
- b. Second, the parents asked Principal Siena to “[t]ake bullying seriously.” As the parents explained: “Several incidents have happened where kids have tried to seriously hurt other kids. Bullied kids to tears. And the response parents heard was ‘it wasn’t that serious.’”

- c. Third, the parents asked Principal Siena to “[c]ommunicate with parents before speaking to our kids in the office on matters.” As the parents explained: “It is extremely intimidating for a child to be pulled into the principal’s office to be questioned about any matter. Unless it is an unavoidable/extreme circumstance, parents should be present with the child or prior notification should be provided to the parents so they can provide consent and give the child a heads up.”
- d. Fourth, the parents asked Principal Siena to ensure that parents are “notified immediately” when their children have been involved in serious incidents. The parents’ letter explained: “Parents are notified of their kids being hurt or key events several hours or days after.”
- e. Fifth, the parents asked Principal Siena to “[p]rovide transparency.”

196. Principal Siena and the Peck Slip administration did not adopt these requests nor take meaningful steps to ensure these legitimate concerns were addressed.

197. Indeed, as noted above, after the Winbushes’ attorneys wrote to Principal Siena and others about the problems of racism and violence at Peck Slip, Principal Siena pulled K.W. into her office for a closed-door meeting without either of the Winbushes present.

198. This was four years after the group of Peck Slip parents had complained to Principal Siena that “[c]hildren have been pulled in to speak to you on disputes happening in their class” and the parents demanded that this practice end.

199. Between January 2020 and December 2022, Peck Slip and District 2 administrators ignored nearly a dozen emailed complaints from the Winbushes.

200. When Peck Slip and District 2 administrators have responded, their response is frequently delayed and often recharacterizes the Winbushes' complaints so that the response fails to address the Winbushes' actual complaint.

201. As noted above, no one from the DOE has responded to the Winbush attorneys' February 1, 2023, letter, sent to Principal Siena, Assistant Principal Corey, District 2 Superintendent McGuire, and DOE General Counsel Liz Vladek. That letter complained about the racism, violence, and harassment that the Winbushes have experienced at Peck Slip.

202. On February 9, 2023, the Winbushes attorneys sent a letter to DOE Chancellor David C. Banks, DOE General Counsel Vladek, and District 2 and Peck Slip leadership to identify the specific acts of retaliation described above that occurred in response to the February 1 letter.

203. No one from the DOE has responded to the Winbushes attorneys nor contacted them in an effort to address these serious complaints.

**c. The DOE, District 2, and Peck Slip have failed to implement and follow state laws and the Chancellor's regulations aimed at curbing racial discrimination**

204. In 2010, New York enacted the Dignity for All Students Act ("DASA") (codified in New York Education Law §§ 10-18).

205. The purpose of DASA is to ensure that no student is "subjected to harassment or bullying," defined broadly as "the creation of a hostile environment by conduct or by threats, intimidation or abuse" that "would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being" or "would reasonably be expected to cause a student to fear for his or her

physical safety” or “would reasonably be expected to cause physical injury or emotional harm to a student.”<sup>5</sup>

206. DASA requires each district to establish “[p]olicies and procedures intended to create a school environment that is free from harassment, bullying and discrimination.”<sup>6</sup>

207. DASA further requires all public schools to:

- a. maintain a comprehensive oral and written system for reporting incidents of harassment, bullying, or discrimination;
- b. have a designated person (the DASA Coordinator) who receives reports of harassment, bullying, or discrimination, and oversees a “thorough investigation” of any such report; and
- c. “take prompt actions reasonably calculated to end harassment, bullying or discrimination” when an investigation identifies such.

208. DASA also prohibits retaliation against any person who reports harassment, bullying, or discrimination or assists in the investigation of such.

209. The DOE maintains regulations that give lip service to these requirements, but in practice, fail to carry out DASA’s mandate “to create a school environment that is free from harassment, bullying and discrimination.”

210. In 2007, the DOE created a citywide program called “Respect For All” to promote “a community of inclusion in New York City public schools,” but in practice, New York City public schools have failed to create a community of inclusion.

211. In 2013, the DOE adopted Chancellor’s Regulation A-832 to address the Department’s obligations under DASA and fold in the Respect For All program.

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<sup>5</sup> New York Education Law § 11.

<sup>6</sup> New York Education Law § 13.

212. Chancellor’s Regulation A-832, like DASA, requires schools to safeguard against retaliation for complaints of harassment, bullying or discrimination.

213. But Chancellor’s Regulation A-832 does not establish specific corrective steps schools must take in responding to incidents of harassment, bullying and discrimination, and it lacks an enforcement mechanism.

214. In practice, New York City public schools like Peck Slip have ignored the requirements of DASA and Chancellor’s Regulation A-832.

215. The Peck Slip website ([www.peckslip.org/](http://www.peckslip.org/)) reveals few resources on bullying, harassment, or discrimination. It does not include a link to the DOE’s Respect For All website. Indeed, it does not even mention “Respect For All” or “DASA.” The words “dignity” and “discrimination” are nowhere to be found. And the Peck Slip website does not provide a form or external link to the DOE’s online discrimination complaint reporting system.

216. Any mention of DASA, “dignity,” or “discrimination” are similarly absent from District 2’s website ([www.district2nyc.org/](http://www.district2nyc.org/)).

### **III. Racism and Segregation Harm Students**

217. New York City’s Board of Health has declared, “racism is a public health crisis.”<sup>7</sup>

218. The American Academy of Pediatrics (AAP) has concluded: “Racism is a core social determinant of health that is a driver of health inequities.”<sup>8</sup> The AAP found that “[s]chool racial climate, which refers to norms, curricula, and interactions around race and diversity within

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<sup>7</sup> Resolution of the NYC Board of Health Declaring Racism a Public Health Crisis (Oct. 18, 2021), at <https://www.nyc.gov/assets/doh/downloads/pdf/boh/racism-public-health-crisis-resolution.pdf>.

<sup>8</sup> Maria Trent, MD, *et al.*, “The Impact of Racism on Child and Adolescent Health,” *Pediatrics*, Vol. 144, Issue 2 (Aug. 2019), available at <https://publications.aap.org/pediatrics/article/144/2/e20191765/38466/The-Impact-of-Racism-on-Child-and-Adolescent>.

the school setting, also impacts educational outcomes for students. Students who had a positive perception of school racial climate had higher academic achievement . . . .”

219. At the core of the Supreme Court’s rejection of “separate but equal” schools in *Brown v. Board of Education* was the undeniable fact that “education is perhaps the most important function of state and local governments.”<sup>9</sup>

220. Education, according to *Brown*, “is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment.”<sup>10</sup>

221. According to an exhaustive report by the UCLA Civil Rights Project’s in 2021: “Public schools were originally created to help bring together a society of many peoples into a common nation, helping people understand and respect each other, learning how to work and govern together.”<sup>11</sup>

222. Segregation, as the Rev. Dr. Martin Luther King Jr. observed, allows toxic perceptions of superiority and inferiority to persist.

223. Segregated schools “are inherently unequal” and harmful to Black and White students alike;<sup>12</sup> and they “den[y] all groups the opportunity to learn together and to prepare to operate successfully in the extremely multiracial city of their future.”<sup>13</sup>

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<sup>9</sup> *Brown*, 347 U.S. at 493.

<sup>10</sup> *Id.*

<sup>11</sup> UCLA Civil Rights Project 2021 Report at 1.

<sup>12</sup> *Brown*, 347 U.S. at 495; see also Erica Frankenberg, Jongyeon Ee, Jennifer B. Ayscue, and Gary Orfield, UCLA Civil Rights Project, *Harming our Common Future: America’s Segregated Schools 65 Years after Brown* (May 10, 2019) (“*Harming our Common Future*”), available at <https://www.civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/harming-our-common-future-americas-segregated-schools-65-years-after-brown/Brown-65-050919v4-final.pdf>

<sup>13</sup> UCLA Civil Rights Project 2021 Report at 1.



224. Moreover, “research shows that the impact of segregation is similar whether caused by law or by local policies and practices.”<sup>14</sup>

225. As explained in the UCLA Civil Rights Project’s 2021 Report: “What we are describing, mostly through analyzing [New York City]’s own statistics, is a striking pattern of racial inequality that is damaging to the city and to all racial and ethnic groups.”<sup>15</sup>

226. Segregation in New York City’s public schools has also caused and exacerbated racial disparities in the schools’ Gifted and Talented programs.

227. In June 2017, the DOE’s School Diversity Advisory Group, established to make formal policy recommendations to the Mayor and Chancellor, found that the DOE’s screening process for Gifted and Talented programs were “unfair, unjust and not necessarily research-based,” and “these programs segregate students by race, class, abilities and language and perpetuate stereotypes about student potential and achievement.”<sup>16</sup>

228. In 2018, nearly 75% of the students enrolled in one of the DOE’s gifted elementary school classes were white or Asian.<sup>17</sup>

229. Although Black and Hispanic students comprise 70% of the DOE student body, they make up only 10% of the student body enrolled in DOE’s specialized high schools.<sup>18</sup>

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<sup>14</sup> Harming our Common Future at 6.

<sup>15</sup> UCLA Civil Rights Project 2021 Report at 3.

<sup>16</sup> School Diversity Advisory Group, *Making the Grade II: New Programs for Better Schools* (Aug. 2019), available at [https://steinhardt.nyu.edu/sites/default/files/2020-05/Making-the-Grade-II\\_0.pdf](https://steinhardt.nyu.edu/sites/default/files/2020-05/Making-the-Grade-II_0.pdf).

<sup>17</sup> Eliza Shapiro, *Desegregation Plan: Eliminate All Gifted Programs in New York*, N.Y. Times (Aug. 26, 2019), available at <https://www.nytimes.com/2019/08/26/nyregion/gifted-programs-nyc-desegregation.html>.

<sup>18</sup> Eliza Shapiro & K.K. Rebecca Lai, *How New York’s Elite Public Schools Lost Their Black and Hispanic Students*, N.Y. Times (June 3, 2019), available at <https://www.nytimes.com/interactive/2019/06/03/nyregion/nyc-public-schools-black-hispanic-students.html>.

**IV. The DOE Has Chosen to Maintain a Segregated School System and Allow Toxic Racism to Permeate New York City’s Schools**

**a. The most segregated public schools in the country**

230. New York City public schools are overwhelmingly segregated by race.<sup>19</sup>

231. In the 2018-2019 school year, there were 1.1 million students enrolled in DOE schools and approximately 26% percent were Black, 15% were white, 16% were Asian, and 41% were Latino.<sup>20</sup>

232. That same year, 74.6% of Black and Latino students attended a school with less than 10% white students and 90% of Black students in New York City’s public schools attended predominantly nonwhite schools.<sup>21</sup> In specialized high schools, 3.9% of students were Black.

233. In half of all New York City Pre-K classrooms, more than 70% of the students come from a single racial or ethnic group.<sup>22</sup>

234. In 2014, the UCLA Civil Rights Project found in 2014 that “New York has the most segregated schools in the country.”<sup>23</sup>

235. Gary Orfield, a co-author of the 2014 UCLA report and the Distinguished Research Professor of Education, Law, Political Science and Urban Planning at UCLA, has concluded that “New York’s record on school segregation by race and poverty is dismal now and has been for a very long time.”

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<sup>19</sup> Eliza Shapiro, *Segregation Has Been the Story of New York City’s Schools for 50 Years*, N.Y. Times (Mar. 26, 2019), available at <https://www.nytimes.com/2019/03/26/nyregion/school-segregation-new-york.html>.

<sup>20</sup> N.Y. City Council, *School Diversity in NYC*, <https://council.nyc.gov/data/school-diversity-in-nyc/>.

<sup>21</sup> *Id.*

<sup>22</sup> Halley Potter, *Diversity in New York City’s Universal Pre-K Classrooms* (Sept. 2016), available at <https://tcf.org/content/report/diversity-new-york-citys-universal-pre-k-classrooms/>.

<sup>23</sup> UCLA Civil Rights Project 2014 Report at vi.

236. The UCLA Civil Rights Project updated its report in 2021 based on more recent data and reached the same conclusion: New York remains the most segregated state for Black students based on the highest share of segregated schools and lowest exposure to white students.<sup>24</sup>

237. Peck Slip's student body is predominantly white and has half as many Black students proportionally as compared to the racial composition of students across District 2.

238. In the 2020-2021 school year, 7% of Peck Slip students identified as Black and 48% identified as white, while throughout District 2, 14% of students identified as Black and 25% identified as white.<sup>25</sup>

**b. Rather than adopt policies to foster integration, the DOE has consistently chosen to maintain and perpetuate a segregated school system**

239. The 2014 UCLA report explained that one of the reasons New York City failed to desegregate its schools in the wake of *Brown v. Board of Education* was a lack of political will.<sup>26</sup>

240. “The failure of New York City’s school board to keep its promise and integrate a single school in Harlem led to the school decentralization movement,” which exacerbated the problem. The decentralization movement “broke the city up into more than 30 school districts, in hope that local control would produce educational breakthroughs, but it left inequality largely untouched.”<sup>27</sup>

241. The 2021 UCLA report identified the lack of a direct legal challenge as another reason that New York City has maintained segregated schools long after *Brown*. “NYC is one of

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<sup>24</sup> UCLA Civil Rights Project 2021 Report at 3.

<sup>25</sup> N.Y. State Educ. Dep’t, *Peck Slip School At A Glance 2020-21*, <https://data.nysed.gov/profile.php?instid=800000075013>; N.Y. State Educ. Dep’t, *NYC Geog Dist # 2 - Manhattan Enrollment (2020 - 21)*, <https://data.nysed.gov/enrollment.php?year=2021&instid=800000048410>.

<sup>26</sup> UCLA Civil Rights Project 2014 Report at iii.

<sup>27</sup> *Id.*

the few major cities that has never had a citywide desegregation lawsuit or court order. From a civil rights perspective, New York has been treated as if it is ‘too big to sue,’ beyond the capacity of any civil rights organization or federal agency to challenge in extremely expensive litigation.”<sup>28</sup>

242. But as the 2021 UCLA report was quick to note, the absence of a legal challenge to New York City’s segregated schools was not for a lack of evidence: “Research in the history of race in New York shows that many of [the factual elements necessary for a legal challenge] exist in the city but no group has had the resources to challenge the nation’s largest system.”<sup>29</sup>

243. The factual elements identified in the 2021 UCLA report include: “abundant evidence of many forms of racial discrimination over history—location and use of facilities, segregation of faculties, differential curricula and programs, attendance boundary lines drawn to foster racial separation, discriminatory choice mechanisms, lack of key resources and opportunities available in many white schools, and tenanting of subsidized housing in ways that force poor children of color into inadequate schools.”<sup>30</sup>

244. The New York City Department of Education, in the space left by the failure of politics and lack of a legal challenge to its segregated school system, has repeatedly chosen to halt efforts to integrate the City’s public schools.

245. For instance, rather than adopt school assignment policies that promote integration, the DOE has chosen school-assignment policies that replicate residential segregation and perpetuate racially isolated schools.

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<sup>28</sup> UCLA Civil Rights Project 2021 Report at 1.

<sup>29</sup> *Id.* at 1-2.

<sup>30</sup> *Id.* at 2.

246. As the 2021 UCLA report explained: “Rather than building high quality magnet schools open to all with civil rights standards, the city embraced market-driven choice without civil rights guarantees, managing to create a large system of charter schools that are even more significantly segregated than its traditional public schools, reaching apartheid levels of racial and class stratification in parts of the city.”<sup>31</sup>

247. In early 2021, then-DOE Chancellor Richard Carranza abruptly resigned after failing to implement desegregation policies that he announced early in his tenure. It was widely reported that then-New York City Mayor Bill de Blasio opposed Chancellor’s Carranza’s desegregation plans.<sup>32</sup>

248. After Chancellor Carranza resigned and David C. Banks was appointed Chancellor in 2022, DOE cancelled *Brilliant NYC*, a plan intended to revamp the Gifted and Talented program – and mitigate the racial segregation perpetuated by that program.

249. *Brilliant NYC* was developed by an expert panel following a review of research and input sessions with parents and educators in each of the City’s 32 school districts.<sup>33</sup>

250. More recently, Chancellor Banks announced in November 2022 that the DOE would no longer follow a change to the middle school screening process that would have encouraged more inclusive admissions.<sup>34</sup>

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<sup>31</sup> UCLA Civil Rights Project 2021 Report at 3.

<sup>32</sup> Eliza Shapiro, *N.Y.C. Schools Chief to Resign After Clashes Over Desegregation*, N.Y. Times (Feb. 26, 2021), available at <https://www.nytimes.com/2021/02/26/nyregion/richard-carranza-nyc-schools.html>.

<sup>33</sup> Christina Veiga, *De Blasio promised to overhaul NYC’s ‘gifted’ programs. Chancellor David Banks will likely shift course* (April 2022), at <https://ny.chalkbeat.org/2022/4/6/23013451/nyc-gifted-and-talented-programs-admissions-changes>.

<sup>34</sup> Laura Meckler, *NYC’s Black schools chief isn’t sure racial integration is the answer*, Washington Post (Nov. 2022), available at <https://www.washingtonpost.com/education/2022/11/17/david-banks-nyc-chancellor-race-equity-merit>.

251. The DOE has repeatedly declined to adopt policies that would decouple race from admission to the city's Gifted and Talented programs.

252. Instead, the DOE has repeatedly chosen to leave in place policies that perpetuate racial disparities in the city's Gifted and Talented programs.

253. By consistently rolling back integration plans and rejecting proposals that would desegregate the schools, DOE has exacerbated segregation in the city schools.

**c. The DOE has allowed toxic racism to permeate the City's schools**

254. For years, the DOE has tolerated and enabled widespread harassment, bullying, and discrimination in New York City's public schools.

255. In 2016, in response to the DOE's persistent failure to remediate the racially hostile environment in the City's schools, twenty-three students and Families For Excellent Schools filed a federal class-action lawsuit: *John Doe #1 v. New York City Dep't of Educ.*, No. 16-CV-1684 (NGG) (RLM) (E.D.N.Y.) ("*John Doe #1*").

256. The *John Doe #1* plaintiffs pointed to statistics, derived from the DOE's own data, that show violence in public schools disproportionately affects students of color; that the DOE lacked an effective process for reporting incidents of violence, bullying, and discrimination; and school officials frequently failed to investigate such incidents.

257. The *John Doe #1* plaintiffs also presented substantial evidence of the DOE's failure to redress substantiated reports of bullying and discrimination; instead, the DOE officials often blamed the victims, told parents there was nothing that could be done, and failed to adequately discipline, supervise, and otherwise address the root problems.

258. In 2018, the DOE agreed to a settlement that required, among other things, more stringent reporting and investigation practices for discrimination complaints.

259. But the DOE, despite the *John Doe #1* settlement, has continued to tolerate a hostile educational environment infused with race-based bullying, harassment, and discrimination.<sup>35</sup>

260. Data reported as part of the *John Doe #1* settlement show that the DOE has failed to remediate the hostile environment in the City's schools.

261. The number of "material incidents," which include founded violations of Chancellor's Regulation A-832, increased from **3,573** citywide in the 2019-2020 fall semester to **3,781** in the 2021-2022 fall semester.<sup>36</sup>

262. Similarly, within District 2, material incidents rose from **272** in the 2019-2020 fall semester to **345** in the 2021-2022 fall semester.

263. Importantly, this data reflects the number of students who are victims of discrimination and bullying, not the number of incidents, meaning that the number of incidents may be much higher.

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<sup>35</sup> See, e.g., *John Doe # 1* Report For Spring Semester SY2021-2022 at 10, available at <https://cdn-blob-prd.azureedge.net/prd-pws/docs/default-source/default-document-library/doe-v-doe-spring-21-22-required-report.pdf>.

<sup>36</sup> Compare *John Doe # 1* Report for Fall Semester 2019-2020 at 2, available at <https://cdn-blob-prd.azureedge.net/prd-pws/docs/default-source/default-document-library/doe-v-doe-fall-required-reportf48958d7c92144a09baa48fe136b0d89.pdf>, with *John Doe #1* Report for Fall Semester 2021-2022 at 3, available at <https://cdn-blob-prd.azureedge.net/prd-pws/docs/default-source/default-document-library/doe-v-doe-fall-21-22-required-report.pdf>.

**FIRST CAUSE OF ACTION**  
**Against Defendants DOE, BOE, and District 2**  
**For Damages Pursuant to Title VI of the Civil Rights Act of 1964**  
**For Unlawful Discrimination**

264. Plaintiffs repeat and reallege each and every allegation made in the foregoing paragraphs as if fully set forth herein.

265. Upon information and belief, Defendants DOE, BOE, and District 2 receive federal financial assistance.

266. The acts and omissions of Defendants DOE, BOE, and District 2, which include the acts and omissions of DOE, BOE, and District 2 officials and employees, violated Plaintiffs' rights under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, by discriminating against them on the basis of race.

267. Defendants DOE, BOE, and District 2 officials and employees deprived Plaintiffs of access to educational programs, activities, and opportunities because of their race.

268. Defendants DOE, BOE, and District 2 officials and employees had actual notice that harassment based on race was so severe, pervasive, and offensive that it created a hostile environment that deprived Plaintiffs of access to educational programs, activities, and opportunities.

269. DOE, BOE, and District 2 officials and employees were deliberately indifferent to harassment of K.W. and S.J.W. based on their race, and this deliberate indifference caused K.W. and S.J.W. to be subjected to the above-described race discrimination.

270. The aforesaid violations of Title VI were the actual, direct, and proximate cause of injuries suffered by Plaintiffs.



**SECOND CAUSE OF ACTION**

**Against Defendants DOE, BOE, District 2, Siena, and Corey  
For Damages Pursuant to 42 U.S.C. § 1983  
For Unlawful Discrimination in Violation of the Fourteenth Amendment**

271. Plaintiffs repeat and reallege each and every allegation made in the foregoing paragraphs as if fully set forth herein.

272. Defendants DOE, BOE, District 2, Siena, and Corey acting under color of state law, deprived Plaintiffs of rights, privileges, and immunities protected by the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

273. Defendants DOE, BOE, District 2, Siena, and Corey, intentionally discriminated against Plaintiffs on the basis of their race.

274. Defendants DOE, BOE, District 2, Siena, and Corey had actual knowledge that harassment based on race was so severe, pervasive, and offensive that it created a hostile environment that deprived K.W. and S.J.W. of access to educational programs, activities, and opportunities.

275. The practices, policies, or customs of the DOE, the BOE, District 2, and their policymakers for responding to harassment based on race were so unreasonable in light of the known circumstances as to give rise to a reasonable inference that each of these Defendants intended for the harassment to occur.

276. The violations of Plaintiffs' rights under the Fourteenth Amendment by Defendants DOE, BOE, District 2, Siena, and Corey were the actual, direct, and proximate cause of injuries to Plaintiffs.

**THIRD CAUSE OF ACTION**  
**Against Defendants DOE, BOE, and District 2**  
**For Damages Pursuant to Title VI of the Civil Rights Act of 1964**  
**For Unlawful Retaliation**

277. Plaintiffs repeat and reallege each and every allegation made in the foregoing paragraphs as if fully set forth herein.

278. Upon information and belief, Defendants DOE, BOE, and District 2 receive federal financial assistance.

279. The acts and omissions of the DOE, the BOE, and District 2, which include the acts and omissions of DOE, BOE, and District 2 officials and employees, violated Plaintiffs' rights under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, by retaliating against Plaintiffs for making protected complaints.

280. DOE, BOE, and District 2 officials and employees received and/or were aware of the protected complaints made by Plaintiffs.

281. DOE, BOE, and District 2 officials and employees retaliated against Plaintiffs for making protected complaints.

282. The aforesaid violations of Title VI were the actual, direct, and proximate cause of injuries suffered by Plaintiffs.

**FOURTH CAUSE OF ACTION**  
**Against Defendants DOE, BOE, District 2, Siena, and Corey**  
**For Damages Pursuant to 42 U.S.C. § 1983**  
**For Unlawful Retaliation**

283. Plaintiffs repeat and reallege each and every allegation made in the foregoing paragraphs as if fully set forth herein.

284. Defendants DOE, BOE, and District 2, Siena, and Corey acting under color of state law, deprived Plaintiffs of rights, privileges, and immunities protected by the Fourteenth

Amendment of the United States Constitution by retaliating against Plaintiffs for making complaints that are protected by the Fourteenth Amendment.

285. Defendants DOE, BOE, and District 2, Siena, and Corey received and/or were aware of complaints made by Plaintiffs that are protected by the Fourteenth Amendment.

286. Defendants DOE, BOE, and District 2, Siena, and Corey intentionally retaliated against Plaintiffs on the basis of their protected complaints.

287. The violations of Plaintiffs' constitutional rights by Defendants DOE, BOE, and District 2, Siena, and Corey were the actual, direct, and proximate cause of injuries to Plaintiffs.

**FIFTH CAUSE OF ACTION**  
**Against Defendants DOE, BOE, and District 2**  
**For Declaratory and Injunctive Relief**  
**Pursuant to Title VI of the Civil Rights Act of 1964**

288. Plaintiffs repeat and reallege each and every allegation made in the foregoing paragraphs as if fully set forth herein.

289. As a direct and proximate result of the aforementioned acts and omissions, Plaintiffs have suffered and continue to suffer violations of their rights protected by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*

290. DOE, BOE, District 2, and the leadership and policymakers of each have abdicated their legal responsibility to ensure that: (a) Peck Slip school does not maintain a racially hostile environment; (b) DOE, BOE, and District 2 employees do not discriminate against students or parents because of their race; and (c) DOE, BOE, and District 2 employees do not retaliate against students and parents who make complaints about racial discrimination.

291. Plaintiffs will continue to suffer serious and irreparable harm to their rights under Title VI unless DOE, BOE, and District 2 are enjoined from allowing: (a) Peck Slip to maintain a racially hostile environment; (b) DOE, BOE, and District 2 employees to discriminate against

students or parents because of their race; and (c) DOE, BOE, and District 2 employees to retaliate against students and parents who make complaints about racial discrimination.

292. Plaintiffs have exhausted all possible avenues to stop the ongoing violations of their rights afforded by Title VI and have no other available remedy at law.

**SIXTH CAUSE OF ACTION**  
**Against Defendants DOE, BOE, and District 2**  
**For Declaratory and Injunctive Relief**  
**Pursuant to 42 U.S.C. § 1983**

293. Plaintiffs repeat and reallege each and every allegation made in the foregoing paragraphs as if fully set forth herein.

294. As a direct and proximate result of the aforementioned acts and omissions, Plaintiffs have suffered and continue to suffer violations of their rights protected by the Fourteenth Amendment to the United States Constitution.

295. DOE, BOE, District 2, and the leadership and policymakers of each have abdicated their legal responsibility to ensure that: (a) Peck Slip school does not maintain a racially hostile environment; (b) DOE, BOE, and District 2 employees do not discriminate against students or parents because of their race; and (c) DOE, BOE, and District 2 employees do not retaliate against students and parents who make complaints about racial discrimination.

296. Plaintiffs will continue to suffer serious and irreparable harm to their constitutional rights unless DOE, BOE, and District 2 are enjoined from allowing: (a) Peck Slip to maintain a racially hostile environment; (b) DOE, BOE, and District 2 employees to discriminate against students or parents because of their race; and (c) DOE, BOE, and District 2 employees to retaliate against students and parents who make complaints about racial discrimination.

297. Plaintiffs have exhausted all possible avenues to stop the ongoing violations of their constitutional rights and have no other available remedy at law.

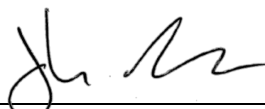
**REQUEST FOR RELIEF**

**WHEREFORE**, Plaintiffs request the Court enter judgment against Defendants, jointly and severally, and:

- a. declare that Defendants have violated Plaintiffs' rights protected by Title VI of the Civil Rights Act of 1964;
- b. declare that Defendants have violated 42 U.S.C. § 1983 by violating Plaintiffs' rights protected by the Fourteenth Amendment to the United States Constitution;
- c. enjoin Defendants from continuing to violate Plaintiffs' rights protected by Title VI of the Civil Rights Act of 1964 and the Fourteenth Amendment to the United States Constitution;
- d. award compensatory damages in an amount that is fair, just, and reasonable and in conformity with the evidence at trial;
- e. assign punitive damages against the individual defendants;
- f. award Plaintiffs reasonable costs, attorneys' fees, and interest; and
- g. grant such other and further relief as this Court may deem appropriate and equitable, including injunctive and declaratory relief as may be required in the interests of justice.

Dated: New York, New York  
February 16, 2023

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