

IN THE UNITED STATES DISTRICT COURT

SOUTHERN DIVISION

M.R., by and through his next friend, )  
Mary Simmons; K.S., by and through )  
his next friend, Blenda G. )

by and through his next friend, Pinkie )  
M. )

COMPLAINT

INTRODUCTION

1 This is a federal civil rights action brought by MCPS Public School

Public School ("MCPS") students on behalf of a class of other MCPS students to challenge the violation of their Fourteenth Amendment right to receive notice and

malroun work. As a result, they often fall behind their classmates and become

frustrated and bored. These consequences are usually

principals to impose long-term suspensions without first holding hearings at which students and parents can challenge proposed suspensions. Second, it challenges the practices of the named Defendant Principals, who summarily suspend students until the end of the semester without following even the minimal procedures set forth in the Board's official policy.

5. The Defendants' actions have caused the Plaintiffs and countless other students to suffer academically and emotionally. Most, if not all, of the Plaintiffs

will be forced to repeat classes or whole grades and

III

brings this action by and through his adoptive mother and great-grandmother, Mary Simmons.

8. Plaintiff K.S. is an eighteen-year-old student residing in Mobile, Alabama. He enrolled for the 2010-2011 school year at Mattie T. Blount High School and attended school there until January 2011, when he was long-term suspended without proper notice or a hearing, apparently for being late to class. K.S. brings this action through his mother, Rhonda Stewart.

9. Plaintiff D.M. is an eighteen-year-old student with a disability residing in Mobile, Alabama. He enrolled for the 2010-2011 school year at Mattie T. Blount High School and attended school there until he was long-term suspended without due process in January 2011, apparently for being tardy. D.M. brings this

action through his mother, Pinkie Manassa.

10. Plaintiff S.A. is a seventeen-year-old student residing in Mobile,

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[REDACTED]

[REDACTED]

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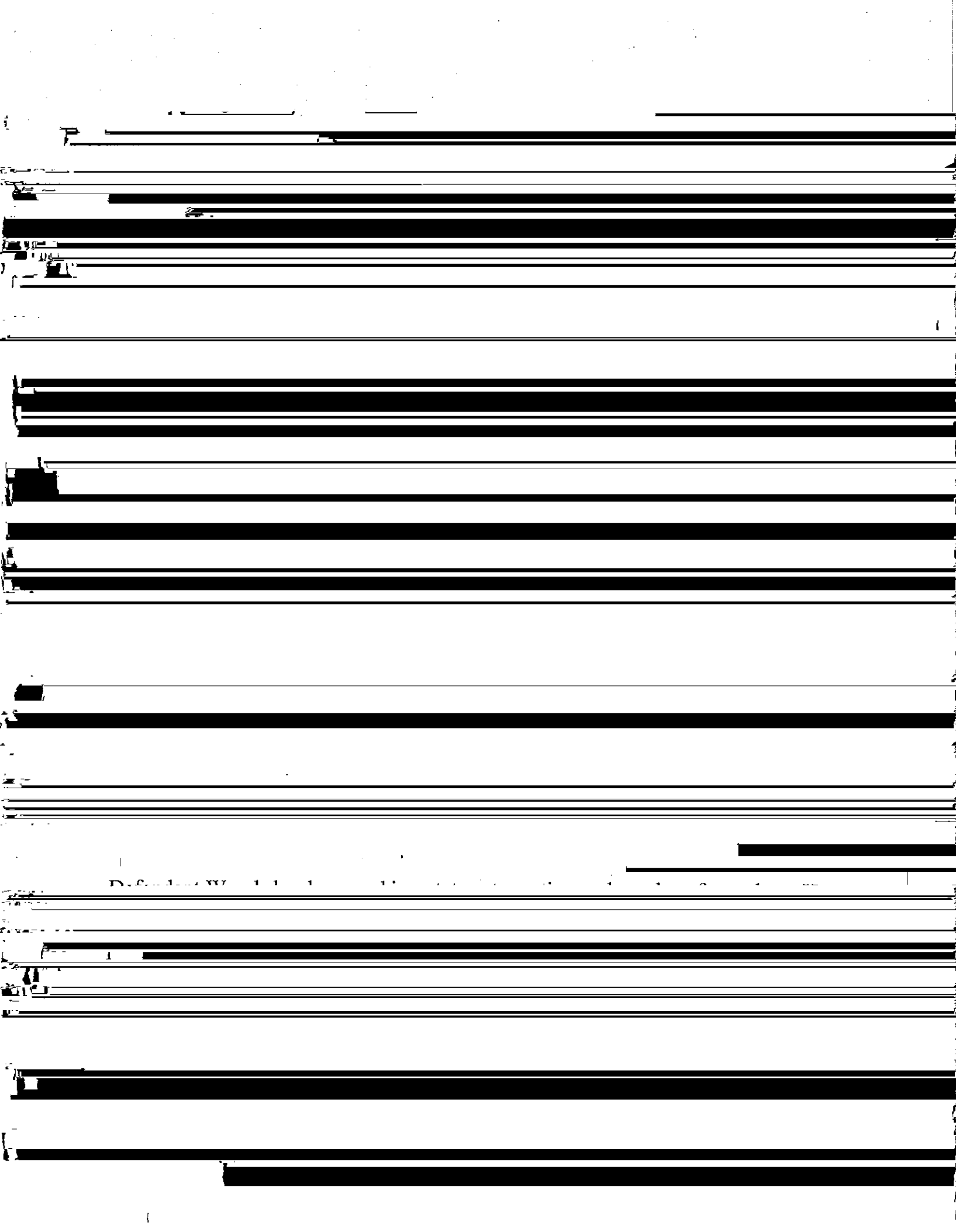
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1) [redacted]

1) [redacted]

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## JURISDICTION AND VENUE

20. The federal claims in this action arise under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331 and 1343(a).

21. Venue is proper in the Southern District of Alabama under 28 U.S.C. § 1391(b)(2) because a “substantial part of the events or omissions giving rise to the claim[s] occurred” within Mobile County, Alabama.

22. The named Plaintiffs bring this suit on their own behalf and on behalf of a class consisting of all current and former Mobile County Public Schools (“MCPS”) students who have been or will be subject to disciplinary removals of more than ten days imposed by summary suspension without notice or hearing



nonviolent offenses, including but not limited to repeat tardies, skipping class, and dress code violations. According to the most recently available data from the U.S. Department of Education, MCPS suspended more than 20 percent of students at least one time per year, and eight MCPS schools suspended more than 50 percent

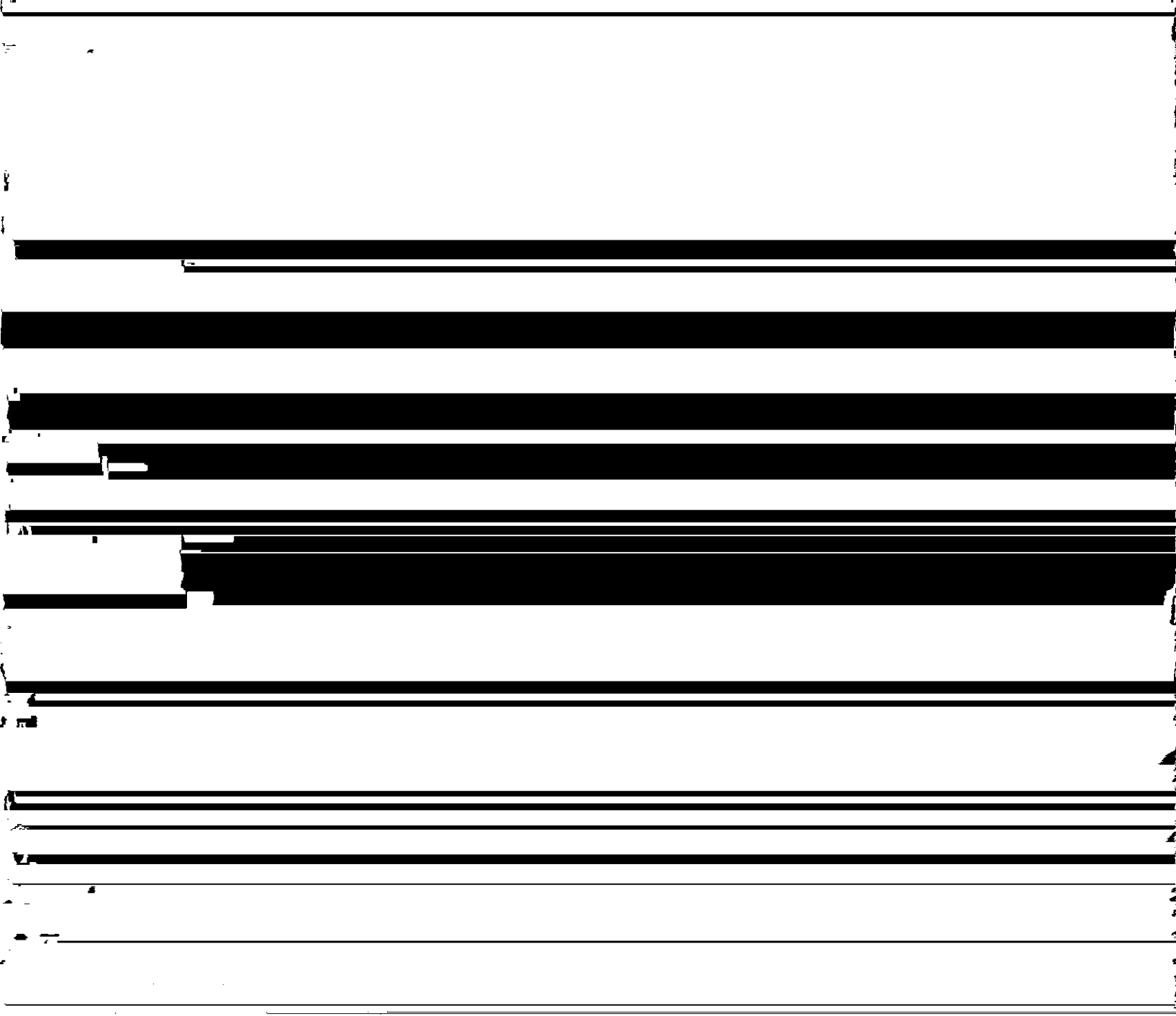
resources to fairly and adequately represent the interests of all class members in this action.

27. The Defendants have acted and refused to act on grounds generally

applicable to the ... HEALTH CARE ...

[REDACTED]

33. The district also does not provide educational services to most general education students who are long-term suspended without assignment to a



school.

34. None of the named Plaintiffs have received educational services during their long-term suspensions.

35. While out of school, suspended MCPS students often receive

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

hearing with the student and parent/guardian, at which the student could present evidence to defend against the charge and the parent could advocate for the child. The parent/guardian could also bring an attorney to the hearing. The principal could only impose a long-term suspension after that hearing.

42. In June 2010, the Board approved the current Handbook. This Handbook significantly reduced procedural protections for students facing long-term suspension.

43. The current Handbook does not require principals to provide notice of

number of respondents in DUMC:

1 11 1 1 1 1 1 1 1 1 1 1

low-income households.

school for the rest of the school year and warned that, were he to return to campus, he would have him arrested for trespassing.

52. That day, Defendant Woods called M.R.'s mother, Mary Simmons, and told her that M.R. was suspended from school for the rest of the school year. He did not explain why. He also told Mrs. Simmons that all of the alternative schools were full, and that M.R. could not attend any other MCPS school. He did not try to schedule a parent conference with Mrs. Simmons or inform her of M.R.'s

challenge the suspension.

56. Around the beginning of April 2011, Mrs. Simmons began receiving



62. Defendant Woods did not convene a due process hearing with Mrs. Simmons and M.R. or allow them an opportunity to obtain and be represented by

63. Defendants Woods did not give Mrs. Simmons an opportunity to advocate for her child before imposing suspension.

64. Before imposing the long term suspension, Defendant Woods did not

provide an explanation of the evidence he had to support the charges.

70. M.R., who has never previously been held back in school, will have to repeat the ninth grade.

71. Once excited about school, M.R. has become depressed and disillusioned since being kicked out of school. He often feels like giving up on education and says he does not want to attend BHS because he feels the school administrators do not want him there. It is difficult for him to believe he was suspended from school for the remainder of the year.

72. Nevertheless, M.R. must re-enroll in the MCPS for the 2011-2012 school year.

*Plaintiff K.S.*

73. K.S. was a student at Blount High School for the 2010-2011 school

74. On or about January 25, 2011, K.S. was suspended from school for the rest of the year, apparently for being late to class. K.S. was walking to class late. A few other students were walking in the hallway as well. Defendant Woods

76. That day, a secretary from the school called K.S.'s mother, Rhonda

Stewart and told her that K.S. was absent on 1-10-01. She said that K.S. was absent on 1-10-01.

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during the testing periods or called his mother and threatened to have D.M.

corrected if he came to school during the tests

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96. The next day, D.M.'s mother called and left a message for Defendant Woods seeking information about when she could bring D.M. back. Defendant Woods called back and said that D.M. could not return to school until May 2011.

97. Before long-term suspending D.M., Defendant Woods did not give

D.M. an opportunity to defend himself.

98. Defendant Woods did not give D.M. an opportunity to present his account of the situation.

99. Before long-term suspending him, Defendant Woods did not give D.M. or his mother oral or written notice of the charges.

100. Before suspending D.M., Defendant Woods did not give D.M.

from potential witnesses or consider such witness statements before rendering his

decision.

105. Defendants Woods did not give D.M.'s mother an opportunity to advocate for her child.

106. After imposing the suspension, Defendant Woods did not send D.M.'s mother a written notice of suspension.

107. Defendant Woods also did not inform D.M. or his mother of their procedural rights related to the suspension.

108. When Defendant Woods suspended D.M. until the end of the semester, he did not create any official record of his actions.

109. This long term suspension is not documented in D.M.'s suspension

and saw that he had actually signed documents to withdraw himself from school.

D.M. did not know what he had signed.



Defendant Lang spotted him on campus, ordered him to leave school immediately, and threatened to have him arrested for trespassing if he returned.

120. In long-term suspending S.A., Defendant Lang denied S.A. an opportunity to defend himself.

121. Defendant Lang failed to give S.A. an explanation of the evidence he

led to removal of the above

122. Defendant Lang failed to give S.A. an opportunity to present his

127. Defendant Lang did not give S.A.'s mother the opportunity to advocate for her child before imposing the long-term suspension.

128. After imposing the suspension, Defendant Lang failed to provide a written notice of suspension to S.A. or his mother.

129. Defendant Lang also did not explain to S.A. or his mother their

130. In fact, Defendant Lang did not officially document the long-term suspension. This suspension is not documented in S.A.'s cumulative file or on in MCPS's computer system.

131. About a week later, S.A.'s mother, Michelle Menaggio, received a

134. S.A. plans to re-enroll in the MCPS for the 2011-2012 school year.

*Plaintiff J.C.*

135. In August 2010, J.C. began the school year at Blount High School.

J.C. is a student with disability. He did not understand much of the coursework in the classes in which he was placed but had been promoted year after year in spite of failing grades.

136. Plaintiff J.C. was placed in a special education class for students with learning disabilities.

J.C. walking in the hallway without an identification ("ID") badge. Defendant

Woods ordered J.C. to leave and not to come back to school.

142. Defendant Woods failed to give J.C. an opportunity to present written evidence or exhibits to support his case before imposing the suspension.

143. Defendant Woods failed to give J.C. an opportunity to provide a list of witnesses for his defence, and accordingly did not

149. E.M. is a thirteen-year-old student at C.L. Scarborough Middle School. He is an intelligent child who often has difficulty with impulsivity, sitting still, and paying attention.

150. C.L. Scarborough Middle School serves approximately 500 students

advocate for her child before suspending him for the rest of the school year.

157. Defendant Laffitte did not give E.M and his mother an explanation of the evidence he had to support the suspension.

158. Defendant Laffitte did not give E.M. an opportunity to present written evidence or exhibits in his defense. Defendant Laffitte did not give E.M. an opportunity to submit the names of witnesses who could support his defense, and accordingly did not try to obtain statements from the student's witnesses or

**CLAIMS FOR RELIEF**

**COUNT ONE**

**Violations of the Fourteenth Amendment by Defendant Board of School**

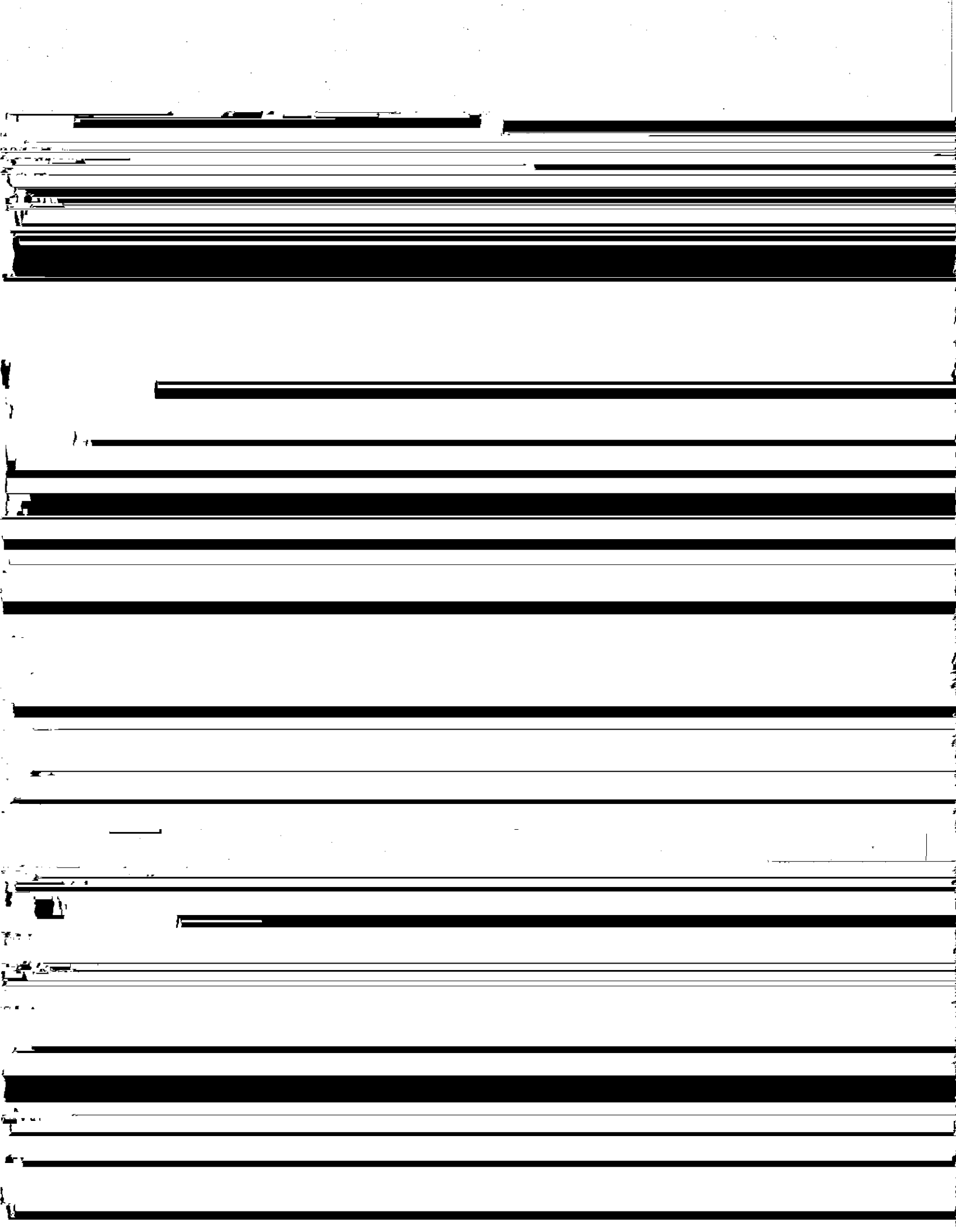
By implementing a policy that authorizes school administrators to suspend students for longer than ten days without first providing proper notice and a hearing, the Board of School Commissioners of Mobile County has violated and continues to violate the Plaintiffs' rights to procedural due process under the Fourteenth Amendment to the United States Constitution.

**COUNT TWO**

**Violations of the Fourteenth Amendment by  
Defendants Woods, Lang, and Laffitte**

By summarily punishing Plaintiffs with suspensions of longer than ten days

without first providing them with proper notice and a hearing, Defendants Woods,





7. Grant any other relief this Honorable Court may deem just and proper.

Respectfully submitted, this the 12th day of May, 2011.

/s/ Marion D. Chartoff  
Marion D. Chartoff

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