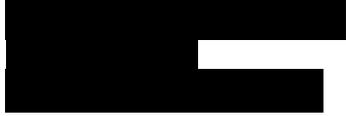


**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NYKIA BRAXTON individually and as
Guardian of J.B. and K.R., minor children



Plaintiff,

v.

Elsie Whitlow Stokes Community Freedom
Public Charter School
3700 Oakview Terrace, Northeast
Washington, D.C. 20017

Erica McGrady,
Chair, Board of Trustees
Elsie Whitlow Stokes Community Freedom
Public Charter School
3700 Oakview Terrace, Northeast
Washington, D.C. 20017

Erika Bryant,
Executive Director
Elsie Whitlow Stokes Community Freedom
Public Charter School
3700 Oakview Terrace, Northeast
Washington, D.C. 20017

Defendants.

Case No.

COMPLAINT

COMPLAINT

1. Plaintiff Ms. Nykia Braxton (“Ms. Braxton” or “Plaintiff”), for her Complaint against Elsie Whitlow Stokes Community Freedom Public Charter School (“Stokes”), Chair Erica McGrady (“Defendant McGrady”) and Executive Director Erika Bryant, (“Defendant Bryant”) (collectively, “Defendants”), alleges as follows:

INTRODUCTION

2. Ms. Braxton is the mother of two young students, including one student with a suspected disability, who attend Stokes, a D.C. public charter school run by Defendant Bryant, the Executive Director. Ms. Braxton raised concerns about the abuse and neglect of her children to the school, to public officials with authority over the welfare of children, and to other parents. In response, Defendants unlawfully retaliated against Ms. Braxton, including barring her from all Stokes campuses for five years.

3. Ms. Braxton is a mother to J.B., a four-year-old boy, and K.R., a six-year-old girl. J.B. is suspected of having a disability and is currently being evaluated for special education.

4. When her children participated in the My School D.C. lottery and were selected for admittance to the brand-new East End campus of Stokes, a well-regarded charter school in D.C., it was a dream come true for her family. Ms. Braxton immediately became involved with the school, volunteered to be a room parent, and participated in the parent email listserv.

5. Unfortunately, Ms. Braxton's dream was quickly shattered. Less than two weeks after then-three-year-old J.B. started class, he was improperly disciplined, removed from his classroom for hours, segregated from his peers, and denied participation in his first classroom celebration because of behaviors related to his suspected disability.

6. Later in the school year several incidents led Ms. Braxton to believe that Stokes staff were not properly caring for J.B. On two occasions, Ms. Braxton found J.B. in soiled clothing when she arrived to pick him up for school; he had urinated himself, but was never changed into clean clothing. On another occasion, Stokes teachers reported to Ms. Braxton that J.B. was not accounted for during a period of several hours while he was in their care.

7. Ms. Braxton's daughter K.R. was also subject to abuse on multiple occasions. Most significantly, a teacher physically assaulted K.R. during an incident caught on video. The teacher pushed K.R. in the chest as she was trying to stand.

8. When Ms. Braxton raised concerns about K.R. being pushed to Stokes staff, the staff denied the allegation and accused K.R. of lying. Subsequent security camera footage did, in fact, show a teacher pushing K.R.

9. Ms. Braxton was not notified by the school after many of these incidents, and instead learned about them from her children directly. After each incident, Ms. Braxton promptly emailed the school and raised her concerns to Stokes teachers and staff, including Defendant Bryant.

10. The aggressive discipline and neglectful educational environment that her children experienced gave Ms. Braxton grave concern. Defendants failed to respond to her concerns, failed to properly investigate many of these incidents, and failed to develop a plan to address K.R.'s and J.B.'s educational environment. Ms. Braxton raised these concerns with other parents through a Stokes-run email listserv, and eventually, with D.C. educational oversight agencies.

11. Defendants retaliated. Instead of responding to Ms. Braxton's multiple concerns, providing guidance to staff, and developing developmentally appropriate interventions for the children, as required by school policy, Stokes attempted to muzzle her.

12. Stokes staff and counsel enacted an escalating series of punitive measures, each designed to pressure Ms. Braxton to withdraw her children from the school and to stop her from filing additional complaints.

13. Finally, without prior notice or just cause, and on the very same day that Ms. Braxton submitted a written request for special education services for J.B., Defendants issued a

retaliatory “Barring Notice” against Ms. Braxton, completely banning her from both of Stokes’s campuses and Maya Angelou Public Charter School, an entirely separate school, for *five years*. A copy of this Barring Notice is attached as Exhibit A.

14. Defendants’ unprecedented and draconian action to forbid Ms. Braxton from entering the property of the school that her children attend for five years violates her First and Fifth Amendment Rights, including her right to free speech and assembly and her right to be involved in her children’s education.

15. As a result of the retaliatory adverse actions and Barring Notice issued by Defendants against Ms. Braxton, Ms. Braxton is unable to participate in her children’s education, unable to speak freely on the school’s parent listserv, and unable to attend and speak freely at other school functions. Her right to seek redress from Stokes’s officials with responsibility for her children’s public education and welfare has been chilled. Her reputation has been maligned, and her children are traumatized to the point that they are fearful of attending school, all of which impact Ms. Braxton personally and professionally. Ms. Braxton was never given an opportunity to respond to allegations of disruptive behavior or have her barring reviewed in a fair or transparent process.

16. This Complaint challenges Defendant’s retaliatory treatment and unconstitutional barring of Ms. Braxton, and is brought under the Freedom of Speech and Freedom of Assembly Clause of the First Amendment to the United States Constitution, the Due Process Clause of the Fifth Amendment to the United States Constitution, and the Americans with Disabilities Act (“ADA”), and the Rehabilitation Act of 1973.

THE PARTIES

17. Plaintiff Nykia Braxton is a resident of the District of Columbia who currently resides at [REDACTED]. She is the mother and legal guardian of J.B and K.R.

18. Defendant Elsie Whitlow Stokes Community Freedom Public Charter School is an entity chartered by the District of Columbia Public Charter School Board (“PCSB”) to operate two schools, including Stokes’s principal campus at 3700 Oakview Terrace, Northeast Washington, D.C. 20017 and Stokes’s East End Campus, located in the District of Columbia at 5600 East Capitol Street, Northeast, D.C. 20019.

19. Stokes was organized as a District of Columbia non-profit corporation in February 1998 and is capable of suing and being sued.

20. At all times relevant to the actions giving rise to this Complaint, Stokes was a state actor acting under color of state law.

21. Defendant Erica McGrady is the Chair of the Board of Trustees for Elsie Whitlow Stokes Community Freedom Public Charter School and has policy-making authority to act on behalf of Stokes. At all times relevant to the actions giving rise to this Complaint, Defendant McGrady was a state actor acting under color of state law.

22. Defendant Erika Bryant is the Executive Director for Elsie Whitlow Stokes Community Freedom Public Charter School. She has policy-making authority to act on behalf of Stokes and signed and executed the five-year Barring Notice preventing Plaintiff from entering her children’s school. Exhibit A. At all times relevant to the actions giving rise to this Complaint, Defendant Bryant was a state actor acting under color of state law.

SUBJECT MATTER JURISDICTION AND VENUE

23. The Court has subject matter jurisdiction over this case under 28 U.S.C. §§ 1331 and 1343 because this action presents federal questions and seeks to redress the deprivation of rights under the Rehabilitation Act of 1973, 29 U.S.C. § 794, the Americans with Disabilities Act, 42 U.S.C. § 12203, and the First and Fifth Amendments to the U.S. Constitution, pursuant to 42 U.S.C. §1983.

24. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1) and 1391(b)(2) because Stokes is located in this judicial district and all of the events giving rise to the claims took place in this district.

25. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202. A declaration of law is necessary and appropriate to determine the parties' respective rights and duties.

26. Injunctive relief is authorized by 28 U.S.C. § 2202.

FACTUAL ALLEGATIONS

27. Ms. Braxton is the mother of J.B. and K.R., two students enrolled in Stokes East End Campus, located at 5600 East Capitol Street, Northeast, D.C. 20019, for the 2018-2019 and 2019-2020 school years.

28. J.B. is a four-year-old boy. For the 2018-2019 school year, J.B. was enrolled in Stokes's pre-K 3 program and for the 2019-2020 school year, J.B. is expected to complete pre-K 4. J.B. is suspected of having a disability that impacts his education, and is currently being evaluated to determine his eligibility for special education services.

29. K.R. is a six-year-old girl. For the 2018-2019 school year, K.R. was enrolled in Stokes's kindergarten program. For the 2019-2020 school year K.R. is expected to complete first grade. K.R. is diagnosed with severe asthma and has an Asthma Action Plan at Stokes.

30. Ms. Braxton is the primary guardian for both J.B. and K.R.

31. Ms. Braxton participated in the My School D.C. lottery, with the hope that her children would have the opportunity to enroll in a school of their choice. Each year, only half of the participants in the My School D.C. lottery are matched with one of their top three choice schools.¹

32. Ms. Braxton researched many charter schools before selecting Stokes as her top choice because of the school's expressed desire for cross-cultural understanding and unique dual language program and because of the academic achievement of its students.

33. Stokes is a well-regarded charter school that has received a Tier 1 ranking from the Public Charter School Board.² Its first class began in 1998, and by 2018, Stokes had one of the longest waitlist of all the D.C. charter schools, with over 1,827 students on the waitlist. Stokes opened its second school, the East End campus where J.B. and K.R. currently attend, in August of 2018, with the first day of school on August 26, 2018.

34. Stokes, on its website, purports that its mission is in part to educate its students by "creating an environment of achievement, respect and non-violence."³

35. Stokes has implemented policies and has issued a student handbook ("Handbook") governing the conduct of the school and how parents and students should be treated. A copy of this Handbook is attached as Exhibit B.⁴ The Handbook states that "[w]e encourage regular

¹ Martin Austermuhle, *What You Need To Know About The D.C. School Lottery*, WAMU (Mar. 28, 2019), <https://wamu.org/story/19/03/28/after-five-years-is-d-c-s-school-lottery-working-for-families/>.

² D.C. Public Charter School Board Releases 2017 School Quality Ratings (Nov. 8, 2017), <https://www.dcpsb.org/dc-public-charter-school-board-releases-2017-school-quality-ratings>.

³ Stokes School Brookland Campus, <https://www.ewstokes.org/brookland-campus> (last visited July 30, 2019).

⁴ Family and Scholar Handbook, Elsie Whitlow Stokes Community Freedom Public Charter School, https://www.dcpsb.org/sites/default/files/2018-2019%20Student%20Handbook_ElsieWhitloStokesCommunFreedoPCS%28LEA%29%29.pdf

communication between parents and teachers.”⁵ Exhibit B. The Handbook also describes the authorized methods for communicating with Stokes and Stokes teachers, which includes placing notes and documents into the student’s “Communication Folder.” *Id.* The Handbook also explains that if a parent or student has a specific problem or concern that the following persons should be contacted, including ultimately, Defendants Bryant and McGrady:

Resolving Problems at School

If either you or your scholar encounter a specific problem or concern at school, the following steps should be taken:

1. Contact your scholar’s teacher
2. If not resolved, contact Constanza Rosas, Director of Teaching and Learning constanzar@ewstokes.org, or Abby Sondak, Dean of Students, abbys@ewstokes.org.
3. If not resolved, you may write a letter to Bobby Caballero, Campus Director or email him at bobbyc@ewstokes.org.
4. If not resolved, you may write a letter to Erika Bryant, Executive Director or email her at erikab@ewstokes.org.
5. If not resolved, you may write a letter to Erica McGrady, Chair of the Board of Trustees, or email boardchair@ewstokes.org.

Id.

36. Stokes East End maintains a parent listserv to provide families an electronic means to communicate with each other and for Stokes to disseminate important information to families.

37. The Stokes East End parent listserv is used by the Stokes community to coordinate school wide events, organize the Parent Teacher Association, coordinate birthday parties, notify parents of school delays, organize parent support for Stokes’s teachers, and address questions and information of general interest to parents.

38. On information and belief, the Stokes parent listserv is controlled by Stokes’s administrators, including Defendant Bryant.

39. Ms. Braxton was actively involved with Stokes and her children’s education before the 2018-2019 school year began. She partnered with the school and other incoming parents to get

⁵ Family and Scholar Handbook, Elsie Whitlow Stokes Community Freedom Public Charter School, https://www.dcpsb.org/sites/default/files/2018-2019%20Student%20Handbook_ElsieWhitloStokesCommunFreedoPCS%28LEA%29%29.pdf

the school ready for the first day, volunteered to be a room parent, observed and volunteered in her children's classes, helped raise money for a Stokes fundraising gala, and regularly communicated with other parents via the parent listserv maintained by Stokes East End.

STOKES FAILED TO MAINTAIN A SAFE EDUCATIONAL ENVIRONMENT FOR ITS STUDENTS

40. During the 2018-2019 academic school year, Stokes East End staff failed to maintain a safe educational environment with respect to K.R. and J.B.

41. On August 29, 2018, Ms. Braxton received a notice from Stokes's East End Campus Director and acting Principal, Karim Ewing Boyd ("Principal Boyd"), that students were physically aggressive towards one another in K.R.'s classroom.

42. The following week, on September 5, Ms. Braxton discovered that J.B. fell down the stairs at school and injured his head and that K.R. was kicked in the face and was the victim of aggression by another student while in her classroom.

43. The next day, J.B. was subjected to overly punitive treatment by his teacher, Ana Carolina Hernandez, and was removed from his classroom for failure to follow instructions. As a result, J.B. missed his first educational and developmentally appropriate event at his new school. J.B. was three-years-old at the time of this incident and had only been in school for a few days.

44. Ms. Braxton immediately contacted Principal Boyd on September 6, asking for an explanation and parent meeting to discuss ways Stokes could ensure effective parent teacher communication and constructive discipline, in accordance with Stokes's policies and procedures.

45. The next day, on September 7, Ana Carolina Hernandez emailed Ms. Braxton to apologize for her harsh discipline of J.B. and noted that in the future she would communicate with Ms. Braxton prior to any disciplinary action. Hernandez also noted that Stokes was "paying close attention to meet [J.B.'s] needs."

46. J.B.'s teachers would track his progress daily by sending a report home in J.B.'s Communication Folder. Per Stokes policy on page 17 of the Handbook, the student's Communication Folder is a way for parents to communicate with teachers and share important documents. Exhibit B. Upon information and belief, teachers would review these folders daily and would place documents into these folders for parents to review at the end of the day.

47. Despite Hernandez's promise and the Communication Folder system, Stokes did not communicate with Ms. Braxton prior to any discipline of J.B. for the remainder of the school year.

48. Instead of communicating with Ms. Braxton with respect to J.B.'s needs, Stokes created a punitive and developmentally inappropriate "Step Plan" to address J.B.'s behaviors, many of which were related to his suspected disability. Stokes never shared this Step Plan with Ms. Braxton.

49. On December 11, 2018, upon picking J.B. up from school, Ms. Braxton noticed J.B. had soiled himself. Although Stokes staff were present, J.B. was found in a corner alone and wet. He had clean clothes available, but had not been changed. At the time, J.B. was fully potty-trained.

50. Ms. Braxton immediately wrote to Principal Boyd informing him of the incident with J.B. and questioned why J.B. was not permitted to use the bathroom as needed. After a week, Principal Boyd replied that he would "follow-up with her concerns." Ms. Braxton has yet to receive any further correspondence or clarification on this issue from any Stokes representative.

51. The following week, on December 17, 2018, when Ms. Braxton arrived to pick J.B. up from Stokes aftercare, staff reported that they could not locate J.B. for approximately two hours

and were only able to find him fifteen minutes before Ms. Braxton had arrived. On that day, J.B. was again found in urine soaked clothes.

52. Concerned for the safety of her children, Ms. Braxton arranged to visit Stokes later that week to observe both J.B. and K.R. in their classrooms. That day, December 20, 2018, Ms. Braxton observed a Stokes teacher push J.B., who was once again in soiled clothes, onto a mat during an “unscheduled naptime” in a different classroom. Ms. Braxton also observed a Stokes teacher, Monica Cruz, yelling at K.R. No incident reports were provided to Ms. Braxton concerning these events.

53. Ms. Braxton immediately brought her concerns to Principal Boyd, who convened a meeting with Ms. Braxton, both of her children, and their teachers including Yudelkys Rodriguez-Rush, Ana Carolina Hernandez, Nancy Cruz, Monica Cruz, and Principal Boyd to discuss concerns about the aggressive treatment of her children at school.

**STOKES’S STAFF ASSAULT ON K.R. & MS. BRAXTON’S GRIEVANCES REGARDING THE
ASSAULT**

54. During this meeting with Principal Boyd on December 20, 2018, K.R. reported that a Stokes teacher had pushed her in the chest the day before, when her mother was not present in the school. The Stokes staff present in the room, including Principal Boyd, immediately denied K.R.’s allegation and said she was lying.

55. On December 21, 2018, Ms. Braxton returned to Stokes to meet with staff because she was concerned that a teacher had in fact pushed K.R. and that Stokes’s denial was a lie. School administrators showed Ms. Braxton a surveillance video taken on Stokes’s security camera that revealed that the school was lying. Khady Sy Niang (“Sy Niang”), a Stokes teacher, had in fact

pushed K.R. in the chest with both hands. The video also shows that four Stokes staff members were present when K.R. was pushed, but they did not attempt to intervene.

56. Ms. Braxton recorded the video on her cell phone while in the room with school administrators.

57. That same day, Ms. Braxton filed a Public Incident Report with the Metropolitan Police Department (“MPD”) concerning Sy Niang’s pushing of K.R. MPD Officers came to Stokes East End campus to allow Ms. Braxton to file her complaint.

58. Stokes subsequently retained outside counsel, the law firm of Barnes & Thornburg, to conduct an investigation into the incident in which Sy Niang pushed K.R.

59. To date, Ms. Braxton has not received a written report related to this incident.

MS. BRAXTON’S SUDDEN REMOVAL FROM THE STOKES LISTSERV WITHOUT NOTICE OR CAUSE

60. As described in the ¶¶ 36 and 37 above, Defendants maintain a parent listserv to which parents can post.

61. Following the December 21, 2018 meeting, on December 31, Ms. Braxton sent an email to the parent listserv. The email advised other parents that K.R. was pushed and that the school initially denied K.R.’s report of the incident. Ms. Braxton wrote in part:

I want you all to know what might be going on with your children and what is going on with our school and your children classmates.

...

[M]y my six-year-old commented to me during that meeting on Thursday with the teachers, that a teacher had pushed her. The principal and other administrators present all immediately told me that this did not occur and that my child was lying. However, it came to past that my child was in fact telling the truth and the camera footage is very disturbing as to how this entire situation was handled.

...

I am writing this e-mail because I want to let you all know that your child might also be being abused unbeknownst to you. I would urge you all to talk to your children and believe them as the principal and staff initially lied to me

about what happened. If I had not spent time listening to my children I would have quickly sided with the staff. I went to the school Friday morning to find out what the staff had to say after speaking with my child and she provided so much detail to her story. Once the staff were done with their stories that didn't match my child I insisted to see the footage and sure enough my 6 year old was telling the truth.

...
This is our community for our children to grow and feel loved. Educational development is very critical at this age and we should stand together to send a message that corporal punishment is not tolerated! Our children should be safe at school.

62. Attached to Ms. Braxton's December 31 email to parents on the listserv was the school surveillance video showing K.R. being pushed by Sy Niang.

63. On January 5, 2019, Stokes emailed all parents on the listserv regarding a "School Community Meeting" scheduled for Tuesday, January 8 at 6:15PM.

64. The purpose of the meeting was to address parent reactions to Ms. Braxton's email and the school's investigation into Ms. Braxton's allegations.

65. However, Ms. Braxton did not receive this invitation through the listserv. On information and belief, sometime between December 31, 2018 and January 5, 2019, her access to the parent listserv had been revoked without notice. Ms. Braxton was later informed of the January 8 meeting by Stokes teachers, David Bravo-Gonzales ("David B.") and Fresia Cortes.

66. Ms. Braxton did not remove herself from the listserv. On information and belief, her access to the listserv was cut off by Stokes staff.

67. Ms. Braxton emailed Defendant Bryant on January 11, 2019, requesting to be added back to the listserv.

68. Ms. Braxton did not receive any subsequent communications from Defendant Bryant regarding her listserv access.

THE JANUARY 8, 2019 SCHOOL COMMUNITY MEETING

69. Ms. Braxton attended the January 8, 2019 School Community Meeting.

70. At the meeting, Ms. Braxton was aggressively approached by Defendant McGrady, the Chair of the Board of Trustees for Stokes.

71. Defendant McGrady publicly demanded that Ms. Braxton stop talking, pointed a finger at Ms. Braxton, and insulted Ms. Braxton by saying “this was not a platform for [her] to speak and seek attention” and that “the meeting was not to address the allegations of [her] children but to address the parent body concerns of the school’s investigation.”

72. Other parents at the meeting who spoke were not aggressively approached or chastised by Stokes staff.

73. Because of Defendant McGrady’s aggressive and intimidating behavior, Ms. Braxton did not feel free to express herself fully at the meeting.

74. Stokes did not communicate anything regarding the status or resolution of the investigation either before or after the community meeting. Because Ms. Braxton’s concerns were not resolved, Ms. Braxton pursued other avenues of advocacy, including filing a complaint with the Public Charter School Board (“PCSB”), filing a grievance with Stokes, and requesting meetings with the Stokes East End staff.

THE D.C. PUBLIC CHARTER SCHOOL BOARD COMPLAINTS AND STOKES’S RESPONSES

75. On January 2, 2019, Patrick Pope of the D.C. PCSB opened a complaint by Ms. Braxton against Stokes. In her complaint, Ms. Braxton alleged that Stokes staff pushed K.R. and left J.B. unattended and soaked in urine. Ms. Braxton requested a full and impartial investigation into these incidents.

76. PCSB notified Stokes of the complaint on January 2.

77. Ms. Braxton sent Defendant Bryant an email on January 11, 2019 to follow up on her prior complaints

78. Ms. Braxton also filed a second complaint against Stokes with the PCSB on January 14, 2019.

79. Defendant Bryant responded to Ms. Braxton on behalf of Stokes on January 15, indicating that Barnes & Thornburg had been retained to review the December 19, 2018 incident involving K.R.

80. Defendants, through Defendant Bryant, stated that “Barnes & Thornburg is also reviewing all of the information you identified in your email to the other Elsie Whitlow Stokes parents, including the issues related to your son.”

81. Defendants, through Defendant Bryant, also indicated that no further discussion of the issue would occur until the review by Barnes & Thornburg is complete, but upon completion of the review, “we will gladly meet with you to discuss the findings.”

82. Defendant Bryant did not reply to the Public Charter School Board until approximately six weeks after Ms. Braxton’s initial complaint. When Defendant Bryant responded on February 12, 2019, it was after Stokes issued the Barring Notice to Ms. Braxton. Stokes responded that Ms. Braxton’s allegations were not substantiated and then proceeded to accuse Ms. Braxton of being confrontational and disruptive, neither of which have any bearing on Ms. Braxton’s complaints regarding the treatment of her children.

SUBSEQUENT PARENT-TEACHER MEETINGS ARE UNILATERALLY CANCELED BY STOKES

83. David B., Director of Teaching and Learning at Stokes, emailed Ms. Braxton on January 15 to arrange a meeting to develop ideas on how to “best support” her children in school. The restorative meeting was scheduled for and took place on January 17 at 11:30am.

84. Following the January 17 meeting, David B. emailed Ms. Braxton on January 23 to schedule a restorative meeting with K.R.'s teacher, Ms. Braxton, and K.R.'s father.

85. On January 25, an email from Principal Boyd suggested the restorative meeting be cancelled based on K.R.'s "wonderful interaction [with the teacher] the day before yesterday."

86. Ms. Braxton responded that same day, indicating that she still wished to conduct the restorative meeting as planned.

87. On January 28, David B. emailed Ms. Braxton, unilaterally canceling the parent teacher conference, and stating that Stokes had concluded that the restorative meeting "scheduled for Monday afternoon is not necessary."

88. Despite Ms. Braxton's requests, no meeting was scheduled. Ms. Braxton did not have another opportunity to meet in person with K.R.'s teachers to discuss her concerns because she was barred on February 11.

MS. BRAXTON'S GRIEVANCE TO STOKES AND STOKES'S INVESTIGATION

89. Pursuant to Handbook page 32, Stokes has a "grievance procedure" for receiving civil rights complaints. It requires that the individual investigating the complaint will respond in writing to the complainant within thirty days. The response is supposed to include the course and outcome of the investigation and identify an appropriate resolution. Exhibit B.

90. Defendant Bryant and Bobby Caballero are the individuals designated per the Handbook grievance procedure to receive complaints regarding Stokes's compliance with civil rights statutes, including the ADA and/or Section 504 of the Rehabilitation Act. Exhibit B.

91. On January 11, 2019, Ms. Braxton wrote an email expressing her grievances to Defendant Bryant. Ms. Braxton also specifically requested a response to her December 12, 2018 email, an explanation of where J.B. was when he was unaccounted for on December 17, 2018, a

report of J.B.'s day on January 8, 2019, and an explanation for the bruises he sustained, and an explanation of why K.R. was disciplined by her teacher on January 10, 2019.

92. Ms. Braxton included a detective from MPD, PCSB, and the school's investigator on her email, ensuring Stokes knew of her complaints to both PCSB and MPD.

93. On January 27, 2019, Stokes issued a letter to the school community from Defendant Bryant, stating that a majority of Barnes & Thornburg's review had been completed.

94. Ms. Braxton received the January 27, 2019 letter from Stokes and wrote to Defendant Bryant to request a response to her concerns and for any and all incident reports related to her children. Ms. Braxton never received a response or any incident reports.

95. Despite Ms. Braxton's request for a written report of the Barnes & Thornburg investigation into the K.R. pushing incident, and her request for the school to identify an appropriate resolution, Ms. Braxton has yet to receive any investigation report on this subject.

96. Barnes & Thornburg did not conduct an independent review but instead was and is currently serving as counsel for Defendants.

97. On February 5, 2019, Stokes, through their counsel Barnes & Thornburg, who both conducted the investigation and represent the school, advised Ms. Braxton's counsel that if she has any concerns about her children having traumatic experiences at school, she should look into transferring or withdrawing the children from Stokes.

MS. BRAXTON'S CONTINUED ADVOCACY WITH D.C. AGENCIES

98. Ms. Braxton followed up with MPD on January 17, 2019 regarding additional incidents of concern. She informed MPD that she witnessed J.B.'s teacher pushing him down onto

a mat and again sent MPD the video of Stokes staff pushing K.R. She also informed MPD feared her children were being ostracized at school in retaliation for her advocacy.

99. That same day, Ms. Braxton also emailed Stokes and advised Stokes that she filed complaints against Stokes with MPD and the D.C. Office of the State Superintendent of Education (“OSSE”).

100. As an update to her initial complaint with the Public Charter School Board, Ms. Braxton’s counsel forwarded Stokes’s suggestion that she transfer or withdraw her children to Patrick Pope at the Public Charter School Board.

101. Upon reviewing Stokes’s counsel’s email advising Ms. Braxton that she should look into transferring or withdrawing her children from Stokes, on February 6, 2019, PCSB advised Stokes that “Any school found to be in any way...limiting enrollment...shall be issued a notice of concern if the actions are deemed systemic. In the past when [PCSB has] applied this policy to schools in violation, [PCSB has] interpreted that by counseling a student out, the school is limiting enrollment.”

THE BARRING NOTICE

102. On February 11, 2019, and without warning, Stokes served Ms. Braxton by hand delivery with the Barring Notice, informing her that, among other things, she was prohibited from setting foot on Stokes’s campus or the neighboring campus of Maya Angelou Public Charter School for a period of *five years*. Exhibit A.

103. A barring notice is a document issued by an entity to prohibit individuals from physically entering premises owned or controlled by those entities. Barring notices such as the one Ms. Braxton received are issued by the entity, entirely discretionary, are not the product of any

formal process, and are not issued nor ratified by a court. However, barring notice forms are made available by police departments such as the MPD on their websites.⁶

104. There is nothing in the Handbook, written policies, or charter that addresses Stokes's use of barring notices or the process by which barring notices are issued or reviewed.

105. The Barring Notice states "as a result of your continued improper communications with teachers and staff, classroom interruptions, and unauthorized removal of Stokes property, you are hereby warned to stay off the property and grounds of Stokes East End and Brookland campuses." Exhibit A.

106. The Barring Notice requires that Ms. Braxton must adhere to pickup and drop-off procedures and cannot step onto Stokes property. *Id.* These procedures include:

107. Should Ms. Braxton arrive before 8:30am, she is required to drop off her children at the back door. *Id.*

108. Should Ms. Braxton arrive after 8:30am, she may drop off her children at the front door and have her children escorted into school. *Id.*

109. To pick up her children, Ms. Braxton must call the school upon arrival and her children will be escorted to a meeting point on East Capitol Street. *Id.*

110. The Barring Notice further states "Failure to adhere to the [B]arring [N]otice will result in Unlawful Entry under D.C. Code 22-3302." *Id.*

111. The Barring Notice was signed by Defendant Bryant in her capacity as Stokes's Executive Director. *Id.*

⁶ The Barring Notice issued to Ms. Braxton is very similar to the Barring Notice available on MPD's website: https://go.mpdconline.com/GO/CIR_16_04.pdf.

112. The Barring Notice prevents Ms. Braxton from attending school events, parent teacher conferences, classroom observations, special education eligibility and individualized education plan meetings, and assisting her children in their classrooms. The Barring Notice prevents her from volunteering at the school. Ms. Braxton cannot even go onto Stokes campus to tend to her children if they are sick or need medical attention.

113. There are no incident reports, no statements from school staff, and no photographic or video evidence included with the Barring Notice. It is therefore impossible for Ms. Braxton to respond meaningfully to its sweeping prohibitions.

COMMUNICATIONS AND ACTS AFTER THE BARRING NOTICE

114. On February 14, Ms. Braxton requested to attend a Black History Month performance of which K.R. was a participant, and was denied. She was therefore prevented from attending K.R.'s performance.⁷

115. Because of the Barring Notice, Ms. Braxton was unable to meet with the teachers or school staff at Stokes after February 11.

116. Ms. Braxton engaged in repeated communication with Stokes, both in her own and through her counsel, to try to resolve the Barring Notice and to try to resolve her concerns regarding K.R.'s and J.B.'s education.⁸

⁷ Ms. Braxton's children were not involved in the Stokes controversy earlier this February. Upon information and believe, two fifth-grade students at Stokes allegedly performed a slavery skit where two African-American children fifth-graders portrayed slaves while a Caucasian fifth-grader held a whip and portrayed a slave master beating the slaves.
<https://www.nbcwashington.com/news/local/Slavery-Skit-at-DC-Charter-School-Upsets-Students-Parents-506246151.html/>.

⁸ Stokes's Barring Notice signed by Defendant Bryant instructed Ms. Braxton to appeal the Barring through Stokes's grievance process. As discussed in ¶ 89 the grievance process only addresses discrimination and harassment under various civil rights statutes.

117. On May 6, 2019, Ms. Braxton, through counsel, submitted a grievance appeal to Stokes, Defendant Bryant, Defendant McGrady, and the Stokes's Board of Trustees after Defendants failed to respond to her repeated grievances requesting that Stokes lift the Barring Notice.

118. Ms. Braxton did not receive a response to her May 6, 2019 grievance appeal.

119. Two weeks later on May 19, 2019, Ms. Braxton, through counsel, submitted a grievance to Stokes, Defendant Bryant, Defendant McGrady, and the Stokes's Board of Trustees regarding Stokes's treatment of K.R. at school. She requested that Stokes refrain from using physical restraints on K.R. and that Stokes develop a plan to communicate with Ms. Braxton about K.R., including lifting the Barring Notice to facilitate communication.

120. Ms. Braxton did not receive a response to her May 19, 2019 grievance.

121. For the first time on June 5, 2019, months after the Barring Notice and only after inquiry of Ms. Braxton's undersigned counsel, Stokes refused to lift the Barring Notice and claimed that the Barring Notice was justified because of Ms. Braxton's alleged behavior. These incidents were mischaracterized and are a pretextual justification for the Barring Notice.

122. Despite a robust record of communication between Stokes staff and Ms. Braxton, Stokes staff did not express concerns about any of these alleged incidents to Ms. Braxton before June 2019.

123. Stokes did not document these alleged incidents in K.R.'s or J.B.'s education records.

STOKES'S CONTINUED MISTREATMENT OF K.R. AND J.B. AND RETALIATION AGAINST MS.

BRAXTON

124. After the February 11, 2019 Barring Notice, J.B. and K.R. continued to go to school and continued to come home with injuries and stories of aggression and punitive discipline from teachers. Yet because of the Barring Notice, Ms. Braxton was prohibited from meaningfully engaging with Stokes to address her concerns.

125. On one occasion after Ms. Braxton was barred, six-year old K.R. was not allowed to use the restroom and wet her pants in the middle of the school day. She was not permitted to call her mother for new clothes and was not given clean clothing until the end of the school day.

126. On another occasion after Ms. Braxton was barred, four-year old J.B. came home with injuries to his head and eye. He said a teacher grabbed him around the legs and he hit his head on a chair.

**MS. BRAXTON'S ADVOCACY FOR J.B. BECAUSE OF HIS SUSPECTED DISABILITY & STOKES
RETALIATORY DELAYS**

127. J.B.'s performance in school and the teacher's apparent inability to respond appropriately to J.B.'s behavior led Ms. Braxton to suspect that he has a disability.

128. In October, students from Howard University's Speech and Hearing Clinic conducted a speech and language screening of students at Stokes—including J.B. The report detailed that J.B.'s speech was "unintelligible 50% of the time." Although J.B. received passing scores, Ms. Braxton grew concerned with J.B.'s speech capabilities.

129. On around January 17, Ms. Braxton informally spoke with J.B.'s case manager at Stokes, Carina Caballero, to discuss next-steps regarding disability evaluations and speech therapy for J.B.

130. On January 24, 2019 Ms. Braxton requested an evaluation for speech language therapy for J.B via email to Mr. Ewing-Boyd.

131. Upon information and belief, the LEA (Stokes) received a referral for an initial evaluation/reevaluation for J.B. on January 29, 2019 to determine whether J.B. has a disability.

132. After Ms. Braxton repeatedly requested the appropriate paperwork, Stokes placed a “Consent for Initial Evaluation/Reevaluation” form into J.B.’s Communication Folder, in order to deliver the form to Ms. Braxton.

133. Ms. Braxton promptly completed the request for special education evaluations for J.B. on OSSE’s official form on February 11, 2019, before she was aware of the Barring Notice, and placed it in J.B.’s Communication Folder, the method of parent teacher communication that the school relies on as discussed in ¶ 46 so that his teachers would initiate the evaluation process. Stokes never initiated the evaluation process for speech language therapy for J.B.

134. Instead, Stokes issued the Barring Notice on the same day that Ms. Braxton placed the OSSE signed form requesting an evaluation into J.B.’s communication folder.

135. Upon information and belief, Stokes teachers were fully aware that the signed OSSE form was in J.B.’s folder. J.B.’s teachers continued to send weekly progress reports and other communications using the Communication Folder after February 11.

136. Stokes staff did not acknowledge Ms. Braxton’s request for evaluations for special education for J.B. until after March 5, 2019, when she sent a follow-up request to Stokes via email and included her attorney and representative from PCSB on the email.

137. Ms. Braxton has subsequently requested, through counsel, that Stokes engage in the Facilitated IEP process. To this day, Stokes has refused to participate in this process.

138. Stokes also has not completed special education evaluations or made an eligibility determination for J.B., despite Ms. Braxton’s prior requests and the school’s obligations under the Individuals with Disabilities in Education Act.

EFFECTS OF THE BARRING NOTICE ON MS. BRAXTON, K.R., AND J.B.

139. Since the Barring Notice was issued against Ms. Braxton, she has not been permitted to participate fully in her children's education, including dropping her young children off and picking them up from school, attending parent-teacher conferences or meetings related to special education, or being part of school wide events such as the PTA, the end of year barbecue, or K.R.'s kindergarten "Stepping Up" Ceremony, (an event similar to a graduation).

140. If the Barring Notice is not lifted, Ms. Braxton will not be able to drop her children off or pick them up from school or attend to any health or safety emergencies for her children.

141. Ms. Braxton will not be able to attend school-wide events for the next five years, such as PTA meetings, back-to-school nights, or parent teacher conferences.

142. Ms. Braxton is unable to participate in any future special education eligibility meetings or potential Individualized Education Plan Meetings for J.B, to which she is a legally required participant, because she is barred from the school.

143. Ms. Braxton's niece attends Maya Angelou Public Charter School, which shares a campus with Stokes. If the Barring Notice is not lifted, Ms. Braxton will not be able to attend her niece's events at Maya Angelou Public Charter School, such as her niece's cheerleading practices.

144. Ms. Braxton has been prevented from speaking freely by Stokes multiple times, including via the parent listserv, at the parent meeting on January 8, 2019, and, because of the Barring Notice, at any of Stokes's on campus events and meetings.

145. Ms. Braxton's speech will remain restricted until the Barring Notice is lifted. She cannot speak freely at school community meetings, parent teacher meetings, or school-wide events until the Barring Notice is lifted.

146. Due to the trauma J.B. experienced at Stokes and Ms. Braxton's fear for his safety, J.B. stopped attending school in February 2019. He wakes up at night with nightmares and wets the bed, which he had not done in the weeks prior to attending Stokes.

147. Due to the trauma K.R. experienced at Stokes and Ms. Braxton's fear for her safety, K.R. stopped attending school in May 2019. She has on occasion wet the bed, despite being fully toilet trained, due to her trauma.

148. Due to the trauma caused by Stokes's treatment of J.B. and K.R. and Stoke's treatment of Ms. Braxton, Ms. Braxton experienced undue emotional distress. Ms. Braxton's reputation was harmed. She also had to miss work to address the trauma that Stokes's actions caused. This impacted Ms. Braxton's ability to remain gainfully employed and affected her earnings.

149. Ms. Braxton requested, numerous times, through counsel, to enter Stokes East End campus on a limited basis to assist her children with re-entering school. Stokes has not allowed her to do so and so the children remain out of school.

150. To date, Stokes has also refused to lift or modify the Barring Notice. The entire family missed the end of school year events, such as the End of Year Barbecue and Stepping Up Ceremony, milestones K.R. and Ms. Braxton will never get back.

151. Stokes refused to provide Ms. Braxton with the children's paperwork, such as final report cards. As a result, Ms. Braxton did not know the future of her children's education or even what grades Stokes intends to enroll them in for the 2019-2020 school year. The records were only sent to Ms. Braxton six days ago on July 25, 2019, after repeated requests from her counsel.

152. If the Barring Notice is not lifted, Ms. Braxton will not be able to help her children re-enter Stokes when classes begins again on August 26, 2019.

REGULATORY FRAMEWORK

153. Defendant Elsie Whitlow Stokes Community Freedom Public Charter School is a charter school pursuant to D.C. law.

154. The D.C. Public School Charter Board (“PCSB”), a D.C. government agency, has the authority to approve or deny a petition to establish a public charter school. D.C. Code §38-1802.03. PCSB may choose not to renew a charter contract after a public charter school applies for renewal (D.C. Code §38-1802.12), or may revoke a charter (D.C. Code §38-1802.13).

155. All charter schools in D.C. must have the word “public” in their name. D.C. Code §38-1802.04(b)(1).

156. Defendant Elsie Whitlow Stokes Community Freedom Public Charter School was granted a charter by PCSB to operate a public school on July 1, 1998.

157. On April 6, 2015, PCSB and Stokes entered into the Second Amended And Restated Charter School Agreement Between District Of Columbia Public Charter School Board And Elsie Whitlow Stokes Community Freedom Public Charter School (“Charter Agreement”), reauthorizing the incorporation of the school. A copy of this agreement is attached as Exhibit C.⁹

158. D.C. Code requires that Stokes comply with relevant civil rights laws: The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), § 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), part B of the Individuals with

⁹ Stokes’s Charter Agreement is available online on the D.C. public Charter School Board’s website:
<https://www.dcpsb.org/sites/default/files/report/EW%20Stokes%20Restated%20Agreement%202015.pdf>.

Disabilities Education Act (20 U.S.C. § 1411 et seq.), and the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) D.C. Code § 38–18-2.04.

159. Stokes is considered a local education agency under the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act. D.C. Code § 38-1802.10.

160. Stokes receives funding from the federal government following regulations from Title I of the Elementary and Secondary Education Act of 1965. D.C. Code § 38-1802.10.

161. Stokes is required to provide a free public, non-sectarian education to all District of Columbia resident students it accepts. Stokes is obligated to accept any D.C. resident student who applies, subject only to space limitations. If Stokes receives more applications than there are spaces available, students are admitted using a randomized selection process. D.C. Code § 38-1802.06(c), D.C. Code §§ 38-1802.06(a), 38–1802.04.15, 38-1802.06(a).

162. If Stokes fails to meet the performance criteria established by its charter or violates applicable laws, Stokes may lose its charter. D.C. Code § 38-1802.12.

163. D.C. Code establishes regulations and standards for student assessments and discipline at charter schools. D.C. Code § 38-1802.11; D.C. Law 22-157 § 201(11).

164. D.C. Code requires public funds paid from the City’s budget to public charter schools, including Stokes, allocated to local neighborhood public schools. The amount of funds that public charter schools, such as Defendants, receive is determined by the “per student funding formula” established by D.C. law. D.C. Code § 38-1804.01

165. PCSB controls and administers funds to D.C. charter schools and authorizes use of the District of Columbia Public Charter School Board Funds. D.C. Code § 38-1802.14 (g-1).

166. Stokes is required to provide PCSB with any proposed changes to its mission and goals, Rules and Policies for Governance and Operation of School Corporation, Articles of

Incorporation and Bylaws of the School Corporation, Procedures to Ensure Health and Safety of Students and Employees at the Elementary School, Assurance to Seek, Obtain, and Maintain Accreditation, and Relationship Between School and Employees. PCSB maintains authority to approve or deny the proposed changes and revoke Stokes charter if Stokes makes changes without PCSB approval. Charter Agreement §1.1. D.C. Code §§ 38-1802.03(h)(2), 38-1802.12, 38-1802.13.

167. Pursuant to Stokes's 2015 Charter Agreement, PCSB exerts control over a wide spectrum of Stokes's activities including, but not limited to, establishing the school as a public charter school, elements of Stokes's educational program, elements of Stokes's administration and operation, the structure of Stokes's governance, elements of Stokes's financial operations and record keeping, Stokes's personnel, Stokes's reporting requirements, Stokes's compliance with applicable laws including all D.C. and federal provisions prohibiting discrimination on the basis of disability, age, race, creed, color, gender, national origin, religion, ancestry, sexual orientation, gender identification or expression, marital status, or need for special education services, and the renewal, revocation, and termination of Stokes's charter to operate as a school. Exhibit C.

168. Defendants admitted K.R. and J.B. to Stokes pursuant to policies and regulations established by D.C. Code § 38-1802.

169. Plaintiff's child, K.R., attends school under compulsion of D.C. law. D.C. Code § 38-202(a).

FIRST CLAIM FOR RELIEF:

(Claim under 42 U.S.C. §1983 for violation of the First Amendment—Prior Restraint)

170. The allegations contained in ¶¶ 1 through 169 above are incorporated here.

171. The First Amendment to the United States Constitution provides, in relevant part, that "Congress shall make no law...abridging the freedom of speech."

172. The First Amendment to the U.S. Constitution prohibits any state actor from placing prior restraints on an individual's right to free speech unless the state has a compelling interest and the restraint is narrowly tailored to further that compelling interest.

173. At all times relevant to this action, Defendants were acting under color of state law.

174. Ms. Braxton has a right to speak at public or limited public forums like the parent listserv and public meetings at Stokes campuses and the campus of Maya Angelou PCS.

175. Defendants have no compelling interest in preventing Ms. Braxton from speaking.

176. Even if Defendants had a compelling interest in preventing Ms. Braxton from speaking in public fora (they do not), the Barring Notice is a prior restraint that violates the First Amendment because a five year ban on any speech in any public forum it is overbroad.

177. By instituting the Barring Notice, Defendants have violated, and continue to violate, Ms. Braxton's First Amendment right to free speech.

178. The Barring Notice is a policy statement, ordinance, regulation or decision officially adopted or promulgated by Stokes, through its final-decision making officers including Defendant Bryant and Defendant McGrady.

SECOND CLAIM FOR RELIEF:

(Claim under 42 U.S.C. §1983 for violation of the First Amendment—Retaliation)

179. The allegations contained in ¶¶ 1 through 178 above are incorporated here.

180. The First Amendment right of free speech includes not only the affirmative right to speak, but also the right to be free from retaliation by a public official for the exercise of that right.

181. Ms. Braxton' email to the Stokes East End parent's listserv on December 31, 2018 described in ¶ 61 is speech protected under the First Amendment to the U.S. Constitution.

182. Ms. Braxton's complaints, both verbal and written, to MPD, PCSB, and the D.C. Office of the Ombudsman for Public Education are also protected speech under the First Amendment.

183. Defendants were aware of Ms. Braxton's December 31, 2018 email to the Stokes East End parent listserv.

184. Defendants were aware of Ms. Braxton's complaints to MPD, PCSB, and the D.C. Office of the Ombudsman for Public Education.

185. Acting under color of state law, Defendants retaliated against Ms. Braxton for her exercise of protected speech on the listserv and her complaints to MPD, PCSB, and the Ombudsman by issuing a Barring Notice barring her from both of Stokes's campuses and the Maya Angelou Public Charter School for five years as described in ¶¶ 102-113, suggesting she withdraw her children from the school as described in ¶ 97, failing to provide Ms. Braxton with critical information regarding their education as described in ¶¶ 149-151, and harassing her children as described in ¶¶ 124-126, 139-148 to discouraging her from remaining at Stokes

186. Defendants' retaliatory adverse actions against Ms. Braxton violate the First Amendment to the U.S. Constitution.

187. These retaliatory adverse actions are a policy statement, ordinance, regulation or decision officially adopted or promulgated by Stokes, through its final-decision making officers including Defendant Bryant and Defendant McGrady.

THIRD CLAIM FOR RELIEF:

(Claim under 42 U.S.C. §1983 for violation of the First Amendment—Right to Assemble)

188. The allegations contained in ¶¶ 1 through 187 above are incorporated here.

189. The First Amendment guarantees the right of the people to peacefully assemble.

190. The First Amendment prohibits restricting an individual's right to assemble unless there is an *immediate* threat to public safety, peace, or order.

191. Ms. Braxton did not and does pose any threat, let alone an immediate threat, to public safety, peace, or order at any of the Stokes campuses or the Maya Angelou Public Charter School during the school day, at parent/teacher meetings, at the end of year barbecues, or at her children's Stepping Up Ceremonies.

192. By barring Ms. Braxton from the Stokes campuses when she posed no threat to public safety at school events and meetings and was not causing a disruption to the education of any Stokes students, Defendants, acting under color of state law, violated Ms. Braxton's First Amendment right to peacefully assemble.

193. By barring Ms. Braxton from Maya Angelou Public Charter School, an entity not controlled by Stokes, Defendants, acting under color of state law, violated Ms. Braxton's First Amendment Right to peacefully assemble.

194. Defendants' February 11, 2019 Barring Notice and removal of Ms. Braxton from the Stokes East End parent listserv violated Ms. Braxton's First Amendment right to peacefully assemble.

195. The Barring Notice and removal of Ms. Braxton from the Stokes East End parent listserv are a policy statement, ordinance, regulation or decision officially adopted or promulgated by Stokes, through its final-decision making officers including Defendant Bryant and Defendant McGrady.

FOURTH CLAIM FOR RELIEF:

(Claim under 42 U.S.C. §1983 for violation of the Fifth Amendment—Interference with Liberty Interests in Children's Educations)

196. The allegations contained in ¶¶ 1 through 195 above are incorporated here.

197. Under the Fifth Amendment, parents have a fundamental liberty interest to make decisions and participate in their children's education.

198. A parent's constitutional liberty interest to be involved in their child's education is afforded substantive protections under the Due Process clause. The government cannot infringe on this right unless it furthers a legitimate government interest and is not arbitrary, capricious, or unreasonable.

199. Defendants infringed on Ms. Braxton's right to be involved in her children's educations by barring her from Stokes on February 11, 2019.

200. Defendants adverse actions, including, but not limited to, the February 11, 2019 Barring Notice against Ms. Braxton, do not further a legitimate interest on the part of the school. In fact, on information and belief, the Barring Notice was intended to be punitive and to coerce Ms. Braxton to withdraw K.R. and J.B. from Stokes.

201. Defendants' issuing of the Barring Notice, failure to respond to her concerns regarding her children, removal of Ms. Braxton from the listserv, and advisement that she could remove her children from Stokes if they were being traumatized at the school, as alleged in ¶¶ 124-126, 146-148, supra, were an effort to coerce her to withdraw her children from Stokes.

202. The Barring Notice, which bars Ms. Braxton from three separate school campuses and lasts for five years, is arbitrary, capricious, and unreasonable.

203. In issuing the Barring Notice, Defendants, acting under color of state law, violated Ms. Braxton's Fifth Amendment right to be involved in her children's educations.

204. The Barring Notice is a policy statement, ordinance, regulation or decision officially adopted or promulgated by Stokes, through its final-decision making officers including Defendant Bryant and Defendant McGrady.

FIFTH CLAIM FOR RELIEF:

(Claim under 42 U.S.C. §1983 for violation of the Fifth Amendment—Procedural Due Process)

205. The allegations contained in ¶¶ 1 through 204 above are incorporated here.

206. The Fifth Amendment requires that all individuals be afforded due process of law, namely proper notice and an opportunity to be heard, before depriving the individual of a fundamental liberty interest.

207. Ms. Braxton has a fundamental liberty interest in being involved in her children's education.

208. Ms. Braxton also has a fundamental liberty interest in her own reputation.

209. The Barring Notice interferes with Ms. Braxton's liberty interest in participating in her children's education.

210. The Barring Notice maligns Ms. Braxton's reputation among school staff and her community, including other parents at the school.

211. Defendants did not provide sufficient procedural due process before barring Ms. Braxton. Prior to the Barring Notice, she received no notice whatsoever that her conduct allegedly violated any rules or expectations. She had no opportunity to be heard by Stokes decision makers prior to the barring.

212. The Barring Notice itself is insufficient because it fails to provide information regarding the basis for the accusations against Ms. Braxton.

213. There is no procedure by which to challenge the Barring Notice to Stokes's decision makers. By its own language, Defendant's purported grievance procedure does not apply to Barring Notices, and therefore is not sufficient due process to protect Ms. Braxton's fundamental liberty interests infringed by the Barring Notice.

214. Although the “grievance process” does not apply to barring notices, Ms. Braxton submitted grievances concerning the Barring Notice and did not receive any responses as required under the policy. Ms. Braxton appealed the failure to respond to those grievances and did not receive a response to her appeal, rendering the grievance process meaningless.

215. Because of the complete lack of process prior to the Barring Notice and the insufficient attempted “grievance process” post-hoc, there is a high risk of an erroneous decision.

216. Defendants violated Ms. Braxton’s Fifth Amendment due process rights when it failed to provide the procedural protections required, given the weight of Ms. Braxton’s interests.

217. The failure to provide the procedural protections required to Ms. Braxton is a policy statement, ordinance, regulation or decision officially adopted or promulgated by Stokes, through its final-decision making officers including Defendant Bryant and Defendant McGrady.

SIXTH CLAIM FOR RELIEF

(Violation of the Americans with Disabilities Act, 42 U.S.C. § 12203)

218. The allegations contained in ¶¶ 1 through 217 above are incorporated here.

219. The ADA prohibits any person from retaliating against any individual because such individual has opposed any act or practice made unlawful under the ADA or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing arising under the ADA.

220. The ADA also makes it illegal to intimidate or interfere with any individual because that individual aided or encouraged any other individual in the exercise or enjoyment of any right granted or protected by the ADA.

221. An individual engages in a protected activity under the ADA, for which they cannot lawfully be retaliated against, when the individual undertakes any affirmative action in advocating for, or protesting discrimination related to the unlawful conduct of others.

222. J.B. is an individual with a disability as defined by the Americans with Disabilities Act.

223. J.B. is being evaluated for special education services for suspected learning and behavioral disabilities and is regarded as having a disability. Learning and behavioral disabilities can substantially limit learning in school, a major life activity. Ms. Braxton was advocating on behalf of J.B. and his right not to be discriminated against by being punished and segregated from his class for behaviors that are manifestations of his suspected disability when she wrote to Defendants, PCSB, MPD, and OSSE, as alleged in ¶¶ 40-53, 75-82, 89-101, *supra*.

224. Ms. Braxton engaged in protected activity when she cooperated with investigations into Defendants' conduct towards J.B., filed complaints with PCSB, MPD, OSSE, and the D.C. Office of the Ombudsman for Public Education regarding the punitive treatment of J.B. due to behaviors that are a manifestation of his disability, delays related to special education evaluations for J.B., and the psychological trauma J.B. experienced.

225. Defendants were aware of Ms. Braxton's cooperation in their investigation and her complaints to MPD, PCSB, and OSSE.

226. In order to punish Ms. Braxton for her advocacy and complaints on behalf of J.B., Defendants took discriminatory and retaliatory actions against her, including, but not limited to, removing her from the parent listserv, barring Ms. Braxton from the school, delaying the special education process for J.B., refusing to provide a written response to Ms. Braxton's complaints,

intimidating her from speaking out at community meetings, and disparaging Ms. Braxton among the school and parent community.

227. Defendants' proffered justification for barring Ms. Braxton is simply a pretext; the true motivation, to punish Ms. Braxton for speaking up, is unlawful retaliation.

228. As a result of these retaliatory actions, Ms. Braxton suffered and continues to suffer emotional harm after seeing her children traumatized, lost her job due to the time it took to care for her children when they should have been in school, and suffered undue stress as her reputation was damaged.

229. These adverse actions were all close in time and would dissuade a reasonable person from filing a complaint against Stokes.

230. Defendants' adverse actions against Ms. Braxton were retaliatory and violate the Americans with Disabilities Act.

SEVENTH CLAIM FOR RELIEF

(Violation of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and 34 C.F.R. § 104.61)

231. The allegations contained in ¶¶ 1 through 230 above are incorporated here.

232. The Rehabilitation Act makes it unlawful for any recipient of federal funds to intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 504 of the Rehabilitation Act.

233. Stokes receives federal funding from the U.S. Department of Education and the U.S. Department of Agriculture and is subject to the Rehabilitation Act of 1973.

234. As an individual with a disability, as alleged in ¶¶ 40-53, 127-139, supra, J.B. is protected by the Rehabilitation Act.

235. Ms. Braxton was advocating on behalf of J.B. and his right not to be discriminated against by being punished and segregated from his class for behaviors that are manifestations of his suspected disability when she wrote to Defendants, PCSB, MPD, and OSSE, as alleged in ¶¶ 40-53, 127-139, supra.

236. Ms. Braxton engaged in protected activity under the Rehabilitation Act when she cooperated with investigations into Stokes's conduct towards J.B. and filed complaints with PCSB, MPD, OSSE, and the D.C. Office of the Ombudsman for Public Education regarding the punitive treatment of J.B. due to behaviors that are a manifestation of his suspected disability, delays related to special education evaluations for J.B., and the psychological trauma her children experienced which was impacting their ability to attend school and learn.

237. Defendants were aware of Ms. Braxton's protected activities, as alleged in ¶¶ 75-82, 89-101, 127-139, supra.

238. To punish Ms. Braxton for her advocacy and complaints on behalf of J.B., Defendants took discriminatory, retaliatory actions against her, including, but not limited to, removing her from the parent listserv, barring Ms. Braxton from the school, delaying the special education process for J.B., refusing to provide a written response to Ms. Braxton's complaints, and disparaging Ms. Braxton among the school and parent community.

239. Defendants' proffered justification for barring Ms. Braxton is simply a pretext and the true motivation, to punish Ms. Braxton, is unlawful retaliation.

240. As a result of these retaliatory actions, Ms. Braxton suffered and continues to suffer emotional harm after seeing her children traumatized, lost her job due to the time it took to care for her children when they should have been in school, and suffered undue stress as her reputation was damaged.

241. These adverse actions were all close in time and would dissuade a reasonable person from filing a complaint against Stokes.

242. Defendants' adverse actions against Ms. Braxton were retaliatory and violate the Rehabilitation Act.

PRAYER FOR RELIEF

Based on the foregoing, Ms. Braxton requests the following relief:

1. A declaration that Defendants violated Plaintiff's right to free speech under the First Amendment to the U.S. Constitution;
2. A declaration that Defendants violated Plaintiff's right to peacefully assemble under the First Amendment to the U.S. Constitution;
3. A declaration that Defendants' actions were retaliatory and violate the First Amendment to the U.S. Constitution;
4. A declaration that Defendants violated Plaintiff's right to procedural due process under the Fifth Amendment to the U.S. Constitution;
5. A declaration that Defendants violated Plaintiff's substantive due process right to be involved in her children's educations under the Fifth Amendment to the U.S. Constitution;
6. A declaration that Defendant's adverse actions against Plaintiff were retaliatory and violate the Americans with Disabilities Act;
7. A declaration that Defendant's adverse actions against Plaintiff were retaliatory and violate the Rehabilitation Act of 1973;
8. Issuance of a preliminary injunction and/or permanent injunction requiring Defendants to lift the February 11, 2019 Barring Notice against Plaintiff;

9. An Order for Defendants to create a barring process, including the opportunity to appeal issuance of Barring Notices, which complies with the substantive and procedural due process requirements of the Fifth Amendment to the U. S. Constitution;
10. An award to Plaintiff of damages to fairly and reasonably compensate her for the violations of her civil and Constitutional rights;
11. An award to Plaintiff of reasonable attorney's fees and costs, as provided by law; and
12. Such other legal, equitable, and monetary relief as the Court may deem Plaintiff entitled to receive.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: July 31, 2019

Nykia Braxton

By her attorneys,

/s/ Kaitlin Banner_____

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