

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

KEYSHA POWELL, individually and on behalf
of her Minor Child, S.R.
542 24th Street NE
Washington, DC 20002

Plaintiff,

v.

DISTRICT OF COLUMBIA
A Municipal Corporation
441 4th Street NW
Washington, DC 20001

Defendant.

To serve:

MURIEL BOWSER, MAYOR
District of Columbia
1350 Pennsylvania Avenue NW
Washington, DC 20004

BRIAN SCHWALB, ATTORNEY GENERAL
District of Columbia
400 6th Street NW
Washington, DC 20001

Case No.

(Trial by Jury Requested)

COMPLAINT

1. This case challenges the District of Columbia (“the District”) Public Schools’ failure to ensure that a student with disabilities has the accommodations she needs to participate in afterschool programming.

2. S.R. is a seven-year-old student with asthma and allergies who attends Miner Elementary School, a District of Columbia Public School. To manage her asthma and to ensure

she does not experience life-threatening allergic reactions, S.R. needs medication, including an inhaler and an EpiPen.

3. Given her age, S.R. cannot independently administer her medications, so she must rely on the school nurse and trained staff to administer them. Without her medications, during an asthma attack or allergic reaction, she experiences difficulty breathing, recurrent coughing, and increased anxiety.

4. During the 2023-2024 academic school year, the 2024 summer session, and the 2024-2025 academic school year, the District did not have staff trained to administer S.R.'s medications during the afterschool program. Without a trained staff to accommodate S.R.'s disabilities, S.R.'s mother, Keysha Powell, had to pick up S.R. early from the program. As a result, S.R. could not fully participate in the afterschool program, and she lost the opportunity to learn, participate in enrichment activities, and interact with her peers.

5. The District has discriminated against S.R. by excluding her from and denying her the benefits of the afterschool program because of her disabilities. Specifically, the District has failed to ensure trained adults were available to administer S.R.'s EpiPen and inhaler and monitor her symptoms.

6. Additionally, Ms. Powell has suffered associational harm as a direct result of the District's failures and discrimination. To ensure S.R.'s safety, Ms. Powell is required to set aside professional and personal obligations to pick up S.R.

7. As relief, Ms. Powell respectfully requests that this Court order the District to award damages to compensate for the past harm inflicted upon S.R. and Ms. Powell, order injunctive relief requiring the District to revise its policies regarding medication administration

during afterschool programming for the academic school year and summer school, and award other relief as requested below.

JURISDICTION AND VENUE

8. This Court has jurisdiction over the matter pursuant to Section 504 of the Rehabilitation Act of 1973 (“Section 504”), 29 U.S.C. § 794; Title II of the Americans with Disabilities Act (“ADA”), and 42 U.S.C. § 12101 *et seq.*

9. This Court has supplemental jurisdiction over the DC Human Rights Act (“DCHRA”) claim, as it arises out of the same nucleus of operative fact. 28 U.S.C. § 1367.

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

PARTIES

11. Plaintiff S.R. is a seven-year-old child with asthma and allergies. S.R. is a qualified individual with a disability under Section 504, the Americans with Disabilities Act, and the DC Human Rights Act. S.R. is a resident of the District of Columbia. S.R. attends Miner Elementary School, which is part of the District of Columbia Public Schools (“DCPS”).

12. Plaintiff Keysha Powell is the parent of S.R. Ms. Powell is a resident of the District of Columbia. Ms. Powell brings this lawsuit individually and on behalf of her minor daughter S.R.

13. Defendant District of Columbia is a public entity under Section 504. 29 U.S.C. § 794. The District receives federal funds and must therefore comply with the requirements of Section 504. 34 C.F.R. § 300.2. Through its designated agency, DCPS, the District is required to ensure all children with disabilities have equal access to its programs and activities as their non-disabled peers and are free from discrimination. 34 C.F.R. § 104.4(a). The District is also

prohibited under the ADA and the DCHRA from discriminating against any student because of his or her disability. 42 U.S.C. § 12132; D.C. Code Ann. § 2-1402.01. The ADA prohibits DCPS from discriminating against an individual due to their association with an individual with a disability.

FACTUAL BACKGROUND

S.R. Has Disabilities That Require Accommodations

14. S.R. is a person with a disability as defined by the ADA, Section 504, and the DCHRA. Specifically, S.R. has asthma and severe allergies to seafood, shellfish, and fish.

15. The term “disability” includes physical and mental impairments that substantially limit one or more major life activities. 42 U.S.C. § 12102(2). Asthma and severe allergies present a serious health risk to S.R. and require careful monitoring and treatment.

16. Allergies are an immune system response to a foreign substance to the body, known as an allergen. When a person comes in contact with an allergen, their immune system overreacts and causes an allergic reaction. If left untreated, an allergic reaction can progress to anaphylaxis. Anaphylaxis is a severe, potentially life-threatening reaction to an allergen that causes the immune system to overreact. A person experiencing anaphylaxis may have a drop in blood pressure, a quickening pulse, skin reaction, such as hives or itching, dizziness, trouble breathing, nausea, and/or vomiting.

17. When S.R. ingests one of her allergens, she may experience any of the following symptoms: a rash (especially hives) with redness and swelling on her face, lips, and tongue, shortness of breath, coughing, wheezing, difficulty talking and/or a hoarse voice, abdominal pain, vomiting, diarrhea, and/or a loss of consciousness. The severity of these symptoms can change quickly and become life threatening.

18. S.R.'s Action Plan for Anaphylaxis, created by Dr. Karen Ganacias, M.D., S.R.'s doctor at MedStar Health, outlines S.R.'s symptoms when she is exposed to her allergens and authorizes school staff to take necessary medical intervention to prevent anaphylactic shock. When S.R. ingests an allergen and any of these symptoms are present, S.R.'s Action Plan instructs school staff to call 911 and administer a one-time injection of .15 mg of epinephrine in S.R.'s thigh to prevent anaphylactic shock. This administration of medication is commonly referred to as an EpiPen. Given S.R.'s age and size, she receives a lower dose of epinephrine ("EpiPen Jr.").

19. At seven years old, S.R. is too young and therefore not approved to self-administer her EpiPen Jr. and requires a trained adult to administer her medication.

20. Asthma is a chronic condition that affects a person's airways and limits their ability to breathe. S.R.'s asthma is triggered by stress and exercise. When she has an asthma attack, she has difficulty breathing, recurrent coughing, shortness of breath, wheezing, and increased anxiety. For her asthma, S.R. is prescribed fluticasone and albuterol, both of which are administered through an inhaler.

21. According to S.R.'s Asthma Action Plan created by Dr. Karen Ganacias, M.D., S.R.'s doctor at MedStar Health (the "Asthma Action Plan"), there are three stages of severity for S.R.'s asthma, all requiring different methods of administration:

- a. When S.R. is in the 'Green Zone,' S.R. requires fluticasone twice a day and albuterol fifteen minutes prior to engaging in physical activity. These are preventative measures that should be taken every day.
- b. When S.R. is in the 'Yellow Zone,' S.R. may show signs of a cough, mild wheeze, problems working or playing, and a tight chest. At this point, cautionary

measures should be taken, and S.R. requires two puffs of albuterol through her inhaler every four hours.

- c. When S.R. is in the ‘Red Zone,’ she cannot talk, eat, or walk well, she is breathing hard and fast, and the medicine is not helping. At this point, emergency measures are required, and S.R. needs two puffs of her albuterol through her inhaler every fifteen minutes for three treatments.

22. Because S.R. is only seven years old, she is not approved to self-administer her medications at any stage of her Asthma Action Plan.

23. Because S.R. cannot self-administer her inhaler, she requires an adult trained in the administration of medication (“AOM”) (such adults referred to herein as “AOM” or “AOMs”) to provide preventative, cautionary, and emergency doses per her Asthma Action Plan. D.C. CODE § 38-651.01 *et seq.* Each school in DCPS is required to have three staff trained in AOM.¹

24. S.R.’s allergies and asthma present serious health risks and need to be carefully monitored and treated when she has a reaction or is at risk of a reaction. To maintain her health and safety and to prevent serious and potentially fatal consequences, S.R.’s allergies and asthma must be accommodated throughout the day, including during school and afterschool programming. Without monitoring and treatment from a trained adult for her asthma and allergies, S.R. is subject to serious health risks when she has an allergic reaction or asthma attack.

25. Ms. Powell initially became aware that afterschool staff could not administer S.R.’s medications after an incident on May 15, 2023, when S.R. was exposed to one of her

¹ *Medication and Treatment at School*, D.C. PUB. SCH., <https://dcps.dc.gov/health> (last visited Dec. 7, 2024).

known allergens and did not receive her EpiPen during the afterschool program. Although afterschool staff recognized that S.R. had red eyes and was fatigued, staff did not call Ms. Powell or take S.R. to the nurse. It was not until S.R. got home that she received treatment from Ms. Powell.

26. In response to this incident, and in an attempt to ensure S.R. would receive her medication as needed, Ms. Powell contacted school staff and filed complaints with the DCPS Comprehensive Alternative Resolution and Equity (“CARE”) team and the Office for Civil Rights at the U.S. Department of Education. In the CARE team’s report following an investigation, DCPS noted that there were no afterschool staff who were AOM trained or trained to administer S.R.’s Epi-Pen during the 2022-2023 and 2023-2024 school year.

2023-2024 Academic School Year

27. During the 2023-2024 academic school year, S.R. was a first-grade student at Miner Elementary.

28. Throughout the 2023-2024 academic school year, S.R. was enrolled in the DCPS Out of School Time Program (“OSTP”) at Miner Elementary. The program started on September 5, 2023. This afterschool program at Miner Elementary ran every day from 3:30-6:00 PM.

29. DCPS’s afterschool programs offer students additional academic support, a free supper or snack, and a variety of enrichment activities. Such activities can include music, art, theater, physical fitness, and character-building programming focused on themes such as character, gratitude, anti-bullying, friendship, or STEM (Science, Technology, Engineering, and Math).

30. Afterschool programming benefits a child's education by improving their school attendance, academic achievement, and attitudes toward learning. Students who attend afterschool programs for two and a half hours each day gain the equivalent of nearly two months of learning time.² Time spent in an afterschool program provides safety and support for children and improves a child's mental and physical well-being.³ Enrichment activities support children in their social, emotional, mental, behavioral, and identity development.⁴

31. Throughout the 2023-2024 academic school year, DCPS did not accommodate S.R.'s disabilities during her afterschool programming. Despite authorization from S.R.'s doctor to treat S.R.'s asthma and allergies, and DCPS's knowledge of S.R.'s disabilities and need for reasonable accommodations, DCPS did not provide a trained adult who could administer S.R.'s medications during the afterschool program.

32. Indeed, the afterschool program staff did not even have access to S.R.'s medication after 4:00 pm, when the school nurse left the school and locked S.R.'s inhaler and EpiPen in the nurse's office.

33. In October 2023, DCPS created a 504 Plan for S.R. The 504 Plan included two accommodations for S.R.'s asthma: (1) S.R. should be taken to the school nurse when showing asthmatic symptoms, including recurrent coughing, difficulty breathing, shortness of breath, or high-pitched breathing sounds; and (2) S.R. should be dismissed to the nurse's office 15 minutes prior to engaging in physical activity for asthma treatment.

² *Afterschool Programs*, D.C. PUB. SCH., <https://dcps.dc.gov/afterschool> (last visited Nov. 13, 2024).

³ *Evaluating Afterschool: The Latest Research on the Impact of Afterschool and Summer Programs*, Afterschool Alliance (Sept. 2024), <https://afterschoolalliance.org/documents/The-Latest-Research-on-the-Impact-of-Afterschool-and-Summer-Programs-2024.pdf>.

⁴ *Id.*

34. Fearing a repeat of the May 2023 incident, Ms. Powell made requests to DCPS staff for more information on the ability of afterschool staff to administer her daughter's medications. On November 6, 2023, DCPS requested a letter from S.R.'s doctor authorizing the afterschool staff to administer S.R.'s prescribed asthma inhaler.

35. That same day, Ms. Powell sent a letter from Dr. Ganacias authorizing afterschool staff to administer S.R.'s asthma medication. Specifically, Dr. Ganacias authorized staff to administer 2 puffs of 90 mcg of albuterol every four hours and to give two puffs as needed for recurrent coughing, difficulty breathing, shortness of breath, or high-pitched breathing sounds. If the treatment was unsuccessful and S.R. continued to show symptoms, afterschool staff were instructed to call Dr. Ganacias immediately.

36. After receiving Dr. Ganacias' letter, DCPS staff unilaterally amended S.R.'s 504 Plan to specify that S.R. should receive treatment at 11:00 AM and 2:50 PM under a false assumption that a dose of albuterol at 2:50 PM would be sufficient to last for the duration of the afterschool program.

37. Despite receiving Dr. Ganacias's letter and multiple requests from Ms. Powell that a trained adult be available to administer S.R.'s medications in the afterschool program, DCPS did not take any steps to ensure that S.R.'s disabilities were accommodated during the afterschool program. S.R.'s 504 Plan for the 2023-2024 school year did not include a plan to ensure S.R. receive the necessary accommodations for her disabilities during the afterschool program.

38. In early March 2024, S.R. had an asthma attack during the afterschool program. Because DCPS had failed to ensure that S.R.'s disabilities were accommodated by having trained

staff who could access and administer her medication, S.R. suffered difficulty breathing until Ms. Powell came to pick her up.

39. Ms. Powell only learned that DCPS was still not accommodating S.R.'s disabilities during the afterschool program when she went to pick up S.R. at 6:00 PM and discovered S.R. was having difficulty breathing and no staff members had administered her inhaler.

40. Ms. Powell immediately contacted DCPS and learned that DCPS unilaterally and incorrectly decided S.R. did not require her inhaler during the afterschool program. Despite receiving the letter from Dr. Ganacias authorizing school staff to administer S.R.'s medication, and despite Ms. Powell's request for accommodations during the afterschool program, DCPS did not have a plan to administer S.R.'s medication, did not have staff who could access or administer S.R.'s medications, and failed to take any action when S.R. had an asthma attack.

41. To prevent a life-threatening asthma attack, Ms. Powell put her daughter's inhaler in her backpack, so it was easily accessible to her daughter and afterschool staff in case of an emergency. When the school discovered it, they took away S.R.'s essential medication and refused to allow her to carry it on her.

42. Because of DCPS' failure to accommodate S.R.'s asthma and allergies, S.R. was at risk of life-threatening allergic reactions and asthma attacks during the after-school program.

43. As a result of the District's failure to accommodate S.R., in March 2024, Ms. Powell began picking up S.R. early from the afterschool program at or around 4:00 PM when the nurse left for the day and her medications were locked in the nurse's office. Ms. Powell continued to pick up S.R. two hours early from the program until it ended in June 2024.

44. For over four months, S.R. was forced to miss two hours of afterschool programming every day. S.R. was denied the opportunity to participate in her education, extracurricular activities, and spend time with her peers.

45. Because the District failed to provide a trained staff member who could administer or even access S.R.'s medications, S.R. became anxious when she went to school because she feared she would not receive her medications in a moment of necessity.

46. The District's failure to accommodate S.R.'s disabilities also adversely impacted Ms. Powell. Ms. Powell is a full-time working mom who works until 5:00 PM during the workweek. To pick up S.R. by 4:00 PM, Ms. Powell had to juggle leaving work early or coordinate with family, friends, and community members to pick up S.R.

47. The District's failure to accommodate S.R.'s disabilities also caused Ms. Powell extreme anxiety and emotional distress. She feared not being able to pick up S.R. by 4:00 PM each day because she did not want to jeopardize her daughter's health and safety by leaving her in the afterschool program without someone who could access or administer her medications. Ms. Powell lost time from work and incurred costs when she had to pay family, friends, and community members to pick up S.R. on days she was unable to leave work early.

2024 Summer Enrichment Program

48. On June 26, 2024, S.R. started DCPS summer school through the Summer Acceleration Academy at Shirley Chisholm Elementary School (f/k/a Tyler Elementary School).

49. The five-week program ran from June 26, 2024, to July 31, 2024, from 8:30 AM until 4:00 PM.

50. Through DCPS' online portal, Ms. Powell enrolled S.R. in the afterschool program for summer school. The program was run by For Love of Children ("FLOC").

51. The District provides significant assistance to FLOC. In fiscal year 2024, FLOC received a grant from the District through the Deputy Mayor for Education's Office of Out of School Time Grants and Youth Outcomes for their out-of-school time programming. As conditions of the grant, FLOC had administrative, personnel, financial, program, and quality assurance requirements. FLOC also had to participate in annual training provided by the District on supporting youth with disabilities or other underserved populations.

52. As a provision of the grant, FLOC was required to provide reasonable accommodations for students with disabilities in order to participate in the programming in accordance with Section 504 and District of Columbia laws and regulations.

53. During the summer of 2024, FLOC's afterschool program was held at Shirley Chisholm Elementary. The afterschool program ran from 4:00 PM to 6:00 PM and was designed to provide educational support and extracurricular activities.

54. FLOC operated on DCPS' premises, followed the summer school calendar, and utilized Shirley Chisholm Elementary's facilities throughout the duration of the program.

55. Similar to the academic school year, the school nurse left the building at 4:00 PM. In the event that S.R. needed her inhaler or EpiPen, FLOC staff were not trained to administer S.R.'s medications, nor could staff access her medications during the afterschool program, as they were locked in the nurse's office.

56. Because FLOC had no AOM staff members or staff members trained to administer S.R.'s EpiPen, and no access to S.R.'s medications, Ms. Powell arranged for S.R. to be picked up before the nurse left for the day and locked S.R.'s medication in the nurse's office. Similar to the academic school year, Ms. Powell picked up S.R. by 4:00 PM or coordinated with family, friends, and community members to pick up S.R. if she was not available.

57. On at least two occasions during a heat advisory in July 2024, S.R. was in a classroom during the afterschool program that did not have functioning air conditioning. S.R. informed FLOC staff that the heat was making it difficult for her to breathe and she became anxious. Because FLOC staff could not access or administer her medication, she did not receive treatment until Ms. Powell's son administered her inhaler when he picked her up from the afterschool program.

58. Ms. Powell again raised her concerns with FLOC and DCPS CARE team staff, but did not receive any solutions or accommodations for S.R. during the summer afterschool program.

59. Because the District failed to accommodate S.R.'s disabilities in the FLOC program, S.R. could not participate in the summer afterschool program. S.R. was denied the opportunity to participate in her education, enjoy extracurricular activities, and spend time with her peers. The District's failure to accommodate S.R. continued to cause Ms. Powell anxiety and emotional distress, and she incurred additional costs to ensure S.R.'s safety.

2024-2025 Academic School Year

60. This school year, while S.R. is currently on the waitlist for DCPS' afterschool program, Ms. Powell enrolled S.R. in afterschool programming run by United to Rise at Miner Elementary. Similar to DCPS' afterschool program, United to Rise runs from 3:15 PM to 6:00 PM and provides homework assistance, tutoring, and enrichment activities.

61. The District provides significant assistance to United to Rise. In fiscal year 2025, United to Rise received a grant through the Deputy Mayor for Education's Office of Out of School Time Grants and Youth Outcomes. As conditions of the grant, United to Rise has administrative, personnel, financial, program, and quality assurance requirements. Grantees also

must participate in annual training provided by the District on supporting youth with disabilities or other underserved populations.

62. As a provision of the grant, United to Rise must provide reasonable accommodations for students with disabilities in order to participate in the programming in accordance with Section 504 and District of Columbia laws and regulations.

63. Miner Elementary provided Ms. Powell with information about United to Rise on its website and listed United to Rise as an afterschool provider for students. United to Rise is only available to students enrolled in the District in second to fifth grade.

64. United to Rise operated on Miner's premises and used its facilities throughout the duration of the program. It follows a similar start and end time as DCPS' afterschool program and follows the District's school calendar.

65. As part of the registration application for United to Rise, Ms. Powell consented to DCPS sharing S.R.'s personal and academic information.

66. United to Rise's policy is to not administer medication, including over-the-counter medications. United to Rise does not require staff to be trained in AOM and does not have a nurse on staff to provide medication if a child requires it.

67. S.R. is not provided with reasonable accommodations at the United to Rise afterschool program and is denied the ability to fully participate in the program. S.R. is denied the opportunity to participate in her education, enjoy extracurricular activities, and spend time with her peers.

68. Without a trained AOM staff member or access to S.R.'s medications, Ms. Powell picks up S.R. by 4:30 PM. Ms. Powell has to juggle leaving work early and/or coordinating with family, friends, and community members to pick S.R. up on time. The District's failure to

accommodate S.R. continues to cause Ms. Powell anxiety and emotional distress, forces her to miss work, and incur additional costs to ensure S.R.'s safety.

69. Because of the District's failure to accommodate S.R.'s disabilities in the United to Rise program, S.R. is denied full participation in the afterschool program. Despite Ms. Powell's continued advocacy for a trained AOM to administer S.R.'s medication after school, the District has not provided any accommodations for S.R. to participate in the afterschool program.

70. For the 2024-2025 academic school year, S.R. is currently on the waitlist for DCPS' afterschool program held at Miner Elementary.

71. As a student enrolled at Miner Elementary and a District resident, S.R. is eligible for DCPS' afterschool program. On June 6, 2024, registration for the afterschool program opened. Ms. Powell completed the paperwork and registered S.R. for the afterschool program the same day the application opened.

72. On June 9, 2024, Ms. Powell received an automated email that S.R. was placed on the waitlist for the program. When a seat becomes available, S.R. will come off the waitlist and Ms. Powell will enroll her in the program.

73. S.R. requires accommodations in order to participate in the District's afterschool program. She cannot self-administer her EpiPen Jr. or her inhaler and requires accommodations during the afterschool program for her asthma and allergies.

74. The nurse leaves the school every day around 4:30 PM. After the nurse leaves, Ms. Powell understands that there are no AOMs or adults who can administer S.R.'s medications in the DCPS afterschool program.

75. If S.R. is taken off the waitlist, the District's failure to accommodate her disabilities will deny her full participation in the program. Ms. Powell will need to pick up S.R.

early from the program, and S.R. will lose time with her peers and access to extracurricular activities.

CAUSES OF ACTION

COUNT I

VIOLATION OF SECTION 504 OF THE REHABILITATION ACT OF 1973 (29 U.S.C. § 794) ON BEHALF OF S.R.

76. Plaintiff incorporates by reference all allegations contained in the preceding paragraphs.

77. As a child with asthma and allergies, S.R. is an otherwise qualified individual with disabilities. 29 U.S.C. §§ 794, 705(20). Her disabilities substantially limit one or more major life activities, primarily her respiratory and immune systems. At all relevant times, she was qualified to attend District of Columbia Public Schools and enrolled in the afterschool program.

78. Section 504 of the Rehabilitation Act of 1973 mandates that “[n]o otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 29 U.S.C. § 794(a).

79. Section 504 defines “program or activity,” in pertinent part, as “all of the operations of a department, agency, special purpose district, or other instrumentality of a State or of a local government; or the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government[.]” 29 U.S.C. § 794(b)(1)(A)-(B).

80. A recipient receiving Federal financial assistance and providing “any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements” on the basis of disability, deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service or otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service. 34 C.F.R. §§ 104.4(b)(1)(i), (vii); 34 C.F.R. § 104.4(b)(4).

81. Defendant receives federal financial assistance and is a covered entity under Section 504.

82. The afterschool program is a program or activity of Defendant.

83. By failing to provide S.R. with reasonable accommodations, including access to her medication and a trained adult to administer it, Defendant has violated the requirements of Section 504 as follows:

(a) Defendant, through contractual or other arrangements, excluded S.R. from participating in the afterschool program and denied her the benefits of the program or otherwise subjected her to discrimination in violation of 29 U.S.C. § 794(a); 34 C.F.R. § 104.4(b);

(b) Defendant provides significant assistance to FLOC and United to Rise, organizations that discriminate against S.R. on the basis of her disability in violation of 34 C.F.R. § 104.4(b)(1)(v);

(c) Defendant failed to offer aids, benefits, and services, in the most integrated setting appropriate to S.R.’s needs, in violation of 34 C.F.R. § 104.4(b)(2).

84. As a result of this violation of the law, Plaintiff S.R. experienced substantial harm—including, but not limited to, the denial of educational opportunities, loss of interaction

with her peers, denial of access to extracurricular activities, anxiety, trauma, and mental and emotional distress.

85. Pursuant to 29 U.S.C. § 794(a), Plaintiff S.R. is entitled to declaratory, injunctive, and compensatory relief, and reasonable attorneys' fees and costs incurred in bringing this action.

COUNT II

VIOLATION OF THE AMERICANS WITH DISABILITIES ACT (42 U.S.C. § 12101, *et seq.*) ON BEHALF OF S.R.

86. Plaintiff incorporates by reference each allegation contained in the foregoing paragraphs.

87. The ADA provides, in pertinent part, “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132.

88. A public entity, in providing any aid, benefit, or service may not discriminate “directly or through contractual, licensing, or other arrangements, on the basis of disability.” 28 C.F.R. § 35.130(b)(1).

89. A “public entity” includes state and local governments, their agencies, and their instrumentalities. 42 U.S.C. § 12131(1).

90. The Defendant was, at all times relevant to this action, and currently is a “public entity” within the meaning of Title II of the ADA.

91. Defendant provides “services, programs [and] activities,” including educational and extracurricular programs, services, and activities in their schools, within the meaning of the ADA.

92. The term “disability” includes physical and mental impairments that substantially limit one or more major life activities. 42 U.S.C. § 12102(1)-(2). Major life activities include breathing and the operation of a major bodily function such as functions of the immune and respiratory systems. 42 U.S.C. § 12102(2).

93. A “‘qualified individual with a disability’ means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices . . . meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” 42 U.S.C. § 12131(2).

94. S.R. is diagnosed with asthma and allergies which limit her major life activities. S.R. is a resident of the District of Columbia and is an otherwise qualified student with a disability. She was enrolled in the District’s afterschool program, through DCPS or contract organizations, at all times relevant to this Complaint.

95. Through its actions and inactions, Defendant denied S.R. the reasonable accommodations, namely appropriate care for her asthma and allergies, that she needed to safely attend the afterschool program. In doing so, Defendant violated the requirements of the ADA as follows:

(a) Defendant excluded S.R. from participating in the afterschool program, denied her the benefits of the program, or otherwise subjected her to discrimination in violation of 42 U.S.C. § 12132;

(b) Defendant failed to make a reasonable modification under circumstances where it was required, in violation of 28 C.F.R. § 35.130(b);

(c) Defendant provides significant assistance to FLOC and United to Rise, organizations that discriminate against S.R. on the basis of her disability in violation of 28 C.F.R. § 35.130(b)(1)(v);

(d) Defendant failed to administer services, programs, and activities in the most integrated setting appropriate to S.R.'s needs in violation of 28 C.F.R. § 35.130(d).

96. As a result of this violation of the law, Plaintiff S.R. experienced substantial harm—including, but not limited to, the denial of educational opportunities, loss of interaction with her peers, denial of access to extracurricular activities, anxiety, trauma, and mental and emotional distress.

97. Pursuant to 42 U.S.C. § 12133, Plaintiff S.R. is entitled to declaratory, injunctive, and compensatory relief, and reasonable attorneys' fees and costs incurred in bringing this action.

COUNT III

VIOLATION OF THE DISTRICT OF COLUMBIA HUMAN RIGHTS ACT OF 1977 (D.C. Code Ann. § 2-1402.01) ON BEHALF OF S.R.

98. Plaintiff incorporates by reference each allegation contained in the foregoing paragraphs.

99. DCHRA provides, in pertinent part: “[e]very individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the District and to have an equal opportunity to participate in all aspects of life, including, but not limited to, . . . in educational institutions . . .” D.C. Code Ann. § 2-1402.01.

100. The DCHRA further provides that it is unlawful discriminatory practice “[t]o deny, restrict, or to abridge or condition the use of, or access to, any of its facilities, services, programs, or benefits of any program or activity to any person otherwise qualified, wholly or partially, for a discriminatory reason, based upon the actual or perceived . . . disability of any individual” D.C. Code Ann. § 2–1402.41(1).

101. Defendant is an educational institution within the meaning of the DCHRA. D.C. Code Ann. §§ 2–1401.02, 2–1402.42.

102. S.R. is a student with a disability within the meaning of the DCHRA. D.C. Code Ann. § 2–1401.02.

103. Through its actions and inactions, Defendant denied S.R. equal access to its services, programs, and benefits in violation of the DCHRA as follows:

(a) Defendant excluded S.R. from participating in the afterschool program, denied her the benefits of the program, or otherwise subjected her to discrimination in violation of D.C. Code Ann. § 2–1402.01;

(b) Defendant failed to make a reasonable accommodation under circumstances where it is required, in violation of D.C. Code Ann. § 2–1402.31;

(c) Defendant failed to administer services, programs, and activities in the most integrated setting appropriate to S.R.’s needs in violation of D.C. Code Ann. § 2–1402.41.

104. As a result of this violation of the law, Plaintiff S.R. experienced substantial harm—including, but not limited to, the denial of educational opportunities, loss of interaction with her peers, denial of access to extracurricular activities, anxiety, trauma, and mental and emotional distress.

105. Pursuant to D.C. Code Ann. § 2–1402.01, Plaintiff S.R. is entitled to declaratory, injunctive, and compensatory relief, and reasonable attorneys’ fees and costs incurred in bringing this action.

COUNT IV

**VIOLATION OF THE AMERICANS WITH DISABILITIES ACT
(42 U.S.C. § 12101, *et seq.*)
ON BEHALF OF KEYSHA POWELL**

106. Plaintiff incorporates by reference each allegation contained in the foregoing paragraphs as if specifically alleged herein.

107. The ADA provides that any person alleging discrimination on the basis of disability, including individuals who have a relationship or association to a known individual with a disability, has the right to pursue action under Title II. 42 U.S.C. § 12133.

108. Defendant was, at all times relevant to this action, and currently is a public entity within the meaning of Title II of the ADA.

109. The term “disability” includes physical and mental impairments that substantially limit one or more major life activities. 42 U.S.C. § 12102(2). A “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices ... meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” 42 U.S.C. § 12131(2).

110. S.R. is a qualified individual with a disability.

111. S.R.’s disability was known to Defendant.

112. As the parent of S.R., Ms. Powell is an individual whom Defendant knows has a relationship and association to S.R., an individual with a known disability.

113. It is because of S.R.'s known disability that Defendant discriminated against Ms. Powell—but for S.R.'s known disability, Ms. Powell would not have been required to pick up S.R. early from the afterschool program on a regular basis, change her work schedule, or compensate family, friends, or community members for picking up S.R.

114. Through its actions and inactions, Defendant has denied Ms. Powell equal services, privileges, advantages, accommodations, and other opportunities by failing to provide reasonable accommodations to S.R.

115. As a result of this violation of the law, Plaintiff experienced substantial harm—including, but not limited to, anxiety, trauma, and mental and emotional distress, and incurred expenses when she had to pay family, friends, and community members to pick up S.R. when she was not available.

116. Pursuant to 42 U.S.C. § 12133, Plaintiffs are entitled to declaratory, injunctive, and compensatory relief, and reasonable attorneys' fees and costs incurred in bringing this action.

RELIEF

Based on the foregoing, Plaintiffs respectfully request the following relief, as may be appropriate:

117. Issue judgment for Plaintiffs and against Defendant;

118. Order and declare that the Defendant's conduct as alleged herein has violated Section 504, 29 U.S.C. § 794, and accompanying regulations; the ADA, 42 U.S.C. § 12101 *et seq.*, and accompanying regulations; and the DCHRA, D.C. Code Ann. § 2-1402.01 *et seq.*, and accompanying regulations;

119. Enjoin Defendant from violating the ADA, Section 504, and the DCHRA by failing to accommodate S.R.'s disabilities during afterschool programming;

120. Award damages to compensate S.R. and Keysha Powell for all past harm stemming from the complained-of acts identified herein;

121. Order Defendant to pay Plaintiffs' reasonable attorneys' fees and costs, including the fees and costs of this action; and

122. Award any and all other such relief as may be deemed appropriate by the Court.

REQUEST FOR JURY TRIAL

123. Plaintiff requests a jury trial on all issues so triable.

Respectfully Submitted,

/s/ Chelsea Sullivan

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