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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT  
CIVIL ACTION NO. 20-3015

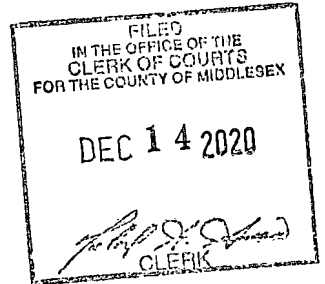
JOHN DOE,

Plaintiff,

v.

CAMBRIDGE PUBLIC SCHOOLS,

Defendant.



**COMPLAINT AND DEMAND FOR TRIAL BY JURY**

**THE PARTIES**

1. Plaintiff, "John Doe," is an individual residing at 49 Magee Street, City of Cambridge, Middlesex County, Commonwealth of Massachusetts.
2. Defendant Cambridge Public Schools, through its agents Kenneth Salim, superintendent of Cambridge Public Schools, Christine Gerber, Principal of Kennedy-Longfellow Elementary School, Erin Kuehn, Assistant Principal of Kennedy-Longfellow Elementary School, and Caitlin Doering, teacher at Kennedy-Longfellow Elementary School, operates the Kennedy-Longfellow Elementary School located at 158 Spring Street, City of Cambridge, Middlesex County, Commonwealth of Massachusetts.

**STATEMENT OF FACTS**

3. John Doe is an African American student who attended Kennedy-Longfellow Elementary School from September 2013 to June 2019.

4. On or about December 20, 2017, John Doe's fourth grade teacher, Caitlin Doering, emailed Principal Christine Gerber and Assistant Principal Erin Kuehn stating female students reported unnamed boys had been sharing photographs of naked women on their cell phones at the end of the school day while waiting for the bus.
5. John Doe was absent from school on December 20, 2017 which is the date the alleged incident occurred and was reported.
6. Without conducting a proper investigation, Principal Christine Gerber and Assistant Principal Erin Kuehn singled out Plaintiff and several of his other African American, male classmates as the perpetrators of the alleged incident.
7. When Plaintiff returned to school on December 21, 2017, Assistant Principal Erin Kuehn pulled him out of class and contacted Plaintiff's legal guardian—his grandmother—requesting that she come to the school for a meeting to discuss the incident.
8. During the meeting, Plaintiff's grandmother explained to Assistant Principal Kuehn that Plaintiff was not present at school the previous day and, furthermore, she did not allow him to bring his cellphone to school so he could not have shared any photographs as alleged.
9. The meeting ended and Plaintiff's grandmother returned home.
10. Plaintiff was given permission to return to class after the meeting.
11. Plaintiff was again removed from class only thirty minutes later and was confined to an unused classroom from approximately 11:00 a.m. to 2:00 p.m.
12. Assistant Principal Kuehn called Plaintiff's grandmother at approximately 2:00 p.m. on or about December 21<sup>st</sup> to inform her that the school decided to suspend Plaintiff for the December 22<sup>nd</sup> school day.

13. Assistant Principal Kuehn did not provide any explanation as to the reason behind the school's decision and threatened Plaintiff's grandmother that if she and Plaintiff came to school, they would be subject to arrest.

14. At approximately 2:00 p.m. on or about December 22<sup>nd</sup> Plaintiff's father went to the school to inquire about the suspension, where Principal Christine Gerber informed him that the school's decision to suspend Plaintiff was premised not on the incident involving photographs of naked women, but on an incident in the cafeteria where 4<sup>th</sup> grade boys were allegedly overheard saying they wanted to "have sex with girls in their class."

15. Later that day, Principal Gerber sent an email to Plaintiff's grandmother scheduling the re-admission meeting for January 2, 2018—a meeting where the school would decide whether any further suspension would be necessary.

16. On or about January 2<sup>nd</sup>, Plaintiff was unable to leave his house because he woke up feeling extreme nervousness from the fear of receiving further disciplinary action from the school.

17. As a result, the re-admission meeting was rescheduled for January 3<sup>rd</sup>.

18. When Plaintiff, his grandmother, and his father arrived for the meeting on January 3<sup>rd</sup>, they were advised to return home because Principal Gerber was not available.

19. Plaintiff's father returned to the school that same day at approximately 3:00 p.m. and was informed that the meeting was cancelled, and Plaintiff could return to school the following day, January 4<sup>th</sup>.

20. The Massachusetts Department of Elementary and Secondary Education conducted an investigation of this incident and determined that Plaintiff's suspension violated his

student rights, and the school was ordered to expunge Plaintiff's suspension from his student record.

21. As a result of the school's unlawful suspension and the stress that it caused Plaintiff, Plaintiff missed three and half days of school.

22. Plaintiff was at no point provided a meaningful opportunity to explain his side of the story; rather, the Defendant acted on the uncorroborated statements of Plaintiff's female colleagues without affording Plaintiff, nor his male counterparts, a similar opportunity to be heard.

### **Count I – Negligent Infliction of Emotional Distress**

23. Plaintiff repeats and incorporates herein his allegations set forth in paragraphs one (1) through twenty-two (22) above.

24. Defendant owed Plaintiff a duty to exercise reasonable care in administering in-school and out-of-school suspensions and a statutorily created duty to provide Plaintiff with notice of the charges and the reason for the suspension as set out in M.G.L. ch. 71 § 37H3/4.

25. Defendant breached this duty by failing to: (1) provide Plaintiff and his guardian with notice and a hearing prior to issuing the suspension, (2) check Plaintiff's attendance record to verify he was present on the date of the alleged incident, and (3) impose less punitive measures while investigating the allegations.

26. Plaintiff suffered severe emotional distress manifested in physical symptoms, including, but not limited to, anxiety, sleep deprivation, weight gain and post-traumatic stress.

27. Plaintiff's severe emotional distress was a direct and proximate result of Defendant's negligent acts and omissions.

28. A reasonable person would have suffered severe emotional distress under the circumstances of the case.

29. Under the Massachusetts Tort Claims Act, M.G.L. ch. 258, § 1 et seq., Defendant Cambridge Public Schools is liable for the above described actions and omissions of agents Kenneth Salim, Christine Gerber, Erin Kuehn, and Caitlin Doering as they were acting within the scope of their employment at all times relevant to this complaint.

30. Plaintiff is therefore entitled to recovery in accordance with M.G.L. ch. 258 § 2.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant in an amount that will fairly and adequately compensate Plaintiff for his emotional distress, embarrassment, and financial loss incurred together with interest, costs, and such other relief as this Honorable Court may deem appropriate.

### **Count II – Discrimination Based on Race**

31. Plaintiff repeats and incorporates herein his allegations set forth in paragraphs one (1) through thirty (30) above.

32. Defendant, a school district that receives Federal financial assistance, discriminated against Plaintiff on the basis of race through actions and omissions which directly and proximately resulted in excluding Plaintiff from obtaining the advantages and privileges of public education, in violation of M.G.L. ch. 76, § 5, as amended through St.1973, c. 925, § 9A and 42 U.S.C. § 2000d et seq.

33. Under the Massachusetts Tort Claims Act, M.G.L. ch. 258, § 1 et seq., Defendant Cambridge Public Schools is liable for the above described actions and omissions of

agents Kenneth Salim, Christine Gerber, Erin Kuehn, and Caitlin Doering as they were acting within the scope of their employment at all times relevant to this complaint.

34. Plaintiff is therefore entitled to recovery in accordance with M.G.L. ch. 76 § 16.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant in an amount that will fairly and adequately compensate Plaintiff for his emotional distress, embarrassment, and financial loss incurred together with interest, costs, and such other relief as this Honorable Court may deem appropriate.

### **Count III – Discrimination Based on Sex**

35. Plaintiff repeats and incorporates herein his allegations set forth in paragraphs one (1) through thirty-four (34) above.

36. Defendant, a school district that receives Federal financial assistance, discriminated against Plaintiff on the basis of sex through actions and omissions which directly and proximately resulted in excluding Plaintiff from obtaining the advantages and privileges of public education, in violation of M.G.L. ch. 76, § 5, as amended through St.1973, c. 925, § 9A and 20 U.S.C. § 1681a et seq.

37. Under the Massachusetts Tort Claims Act, M.G.L. ch. 258, § 1 et seq., Defendant Cambridge Public Schools is liable for the above described actions and omissions of agents Kenneth Salim, Christine Gerber, Erin Kuehn, and Caitlin Doering as they were acting within the scope of their employment at all times relevant to this complaint.

38. Plaintiff is therefore entitled to recovery in accordance with M.G.L. ch. 76 § 16.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant in an amount that will fairly and adequately compensate Plaintiff for his emotional distress,

embarrassment, and financial loss incurred together with interest, costs, and such other relief as this Honorable Court may deem appropriate.

**Count IV – Violation of Plaintiff’s Due Process Rights**

39. Plaintiff repeats and incorporates herein his allegations set forth in paragraphs one (1) through thirty-eight (38) above.

40. Part II, c. 1, Section 1, art. 4, of the Massachusetts Constitution, Articles 1, 10, and 12 of the Massachusetts Declaration of Rights, and the Fourteenth Amendment of the United States Constitution prohibit state actors from depriving an individual of liberty or property without due process of the law.

41. Included within this protection are the rights to notice and a hearing when the state deprives an individual of fundamental liberty or property interests.

42. Upon Defendant extending education to Plaintiff, Plaintiff’s fundamental right in continued education became vested as a property and liberty interest.

43. Defendant deprived Plaintiff of these interests without due process of the law by excluding Plaintiff from attending school and by failing to provide Plaintiff with notice and an opportunity to be heard on the in-school and out-of-school suspensions.

44. Under the Massachusetts Tort Claims Act, M.G.L. ch. 258, § 1 et seq., Defendant Cambridge Public Schools is liable for the above described actions and omissions of agents Kenneth Salim, Christine Gerber, Erin Kuehn, and Caitlin Doering as they were acting within the scope of their employment at all times relevant to this Complaint.

45. Plaintiff is therefore entitled to recovery in accordance with M.G.L. ch. 12 § 11I and 42 U.S.C. § 1983.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant in an amount that will fairly and adequately compensate Plaintiff for his emotional distress, embarrassment, and financial loss incurred together with interest, costs, and such other relief as this Honorable Court may deem appropriate.

**JURY DEMAND**

The Plaintiff hereby demands a trial by jury on each claim asserted or hereafter asserted in the Complaint, and on each defense asserted or hereafter asserted by Defendant.

Respectfully submitted,  
Plaintiff, John Doe,  
By his attorney,



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