

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

A.A., by his next friend and parent, C.A. and  
B.A., by her next friend and parent, C.A.,

Plaintiffs,

*-against-*

MAMARONECK UNION FREE SCHOOL  
DISTRICT; MAMARONECK UNION FREE  
SCHOOL DISTRICT BOARD OF  
EDUCATION; DR. ROBERT M. SHAPS,  
Superintendent of Mamaroneck Union Free  
School District, in his official and individual  
capacities; ELIZABETH CLAIN, Principal of  
Mamaroneck High School, in her official and  
individual capacities; and MARIO  
WASHINGTON, Assistant Principal of  
Mamaroneck High School, in his official and  
individual capacities,

Defendants.

20-cv-03849

**COMPLAINT (CORRECTED)**

Plaintiffs Demand

Trial By Jury

*“How many times is enough for the N-word to be mentioned?”*

- Letter from A.A., age 13, to his Hommocks  
Middle School guidance counselor

Plaintiffs A.A. and B.A. by their next friend and parent, C.A., state the following as their  
Complaint against Mamaroneck Union Free School District (the “School District” or the  
“District”), Mamaroneck Union Free School District Board of Education (the “School Board” or  
“Board”), Dr. Robert M. Shaps, Elizabeth Clain, and Mario Washington (collectively,  
“Defendants”).

## INTRODUCTION

1. A.A. is African-American. The first time he heard the word “nigger”<sup>1</sup> at school, he was in fifth grade.
2. A.A. and his classmates were playing a word game where they spoke aloud words corresponding to each letter of the alphabet. When they came to “N,” one of his classmates looked at him and said “n\*\*\*r,” followed by “Obama” for “O.”
3. The second time A.A. heard the word “n\*\*\*r” at school, he was on the playground with his classmates—still in fifth grade. Several of them used the word “n\*\*\*let” in A.A.’s presence, a racist term used to refer to a black child.
4. The third time A.A. heard the word “n\*\*\*r” at school was just a few weeks later. One of A.A.’s classmates said “n\*\*\*r” and then looked at A.A. and told him, “I’ll get in big trouble, I’ll pay you five bucks not to tell.”
5. The fourth time A.A. heard the word “n\*\*\*r” at school, he was in the sixth grade. Several of his classmates began calling him “vinegar,” deliberately splitting the word between the sounds “vi” and “n\*\*\*r,” and emphasizing the latter.
6. That same year, during A.A.’s English class, a student remarked out loud, “n\*\*\*rs should lick a white man’s balls.” In Science class, another of A.A.’s classmates taught the word n\*\*\*r to others, describing it as “Tigger with an N.”
7. At some point in sixth grade—when A.A. was just eleven years old—the number of times that he was called “n\*\*\*r” at school became too frequent to count. It became a regular part of A.A.’s school experience, along with other racist comments and actions.

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<sup>1</sup> In an exercise of discretion, this Complaint substitutes asterisks for the middle letters in “n\*\*\*r” to refer to this word and another derivation, “nigglet.” In all instances, the speakers described used the complete epithet.

8. For example, in seventh grade, A.A. witnessed his classmates mimic whipping slaves with towels in the locker room, and one told the other “I’m whipping you like a n\*\*\*r.” That student then dangled shoelaces to mimic lynching, saying that the laces could be used to “hang their black motherfucking balls.” He told another student that if he couldn’t tie his shoe, he was a “n\*\*\*r.”

9. In eighth grade, his classmates told him that they were in the “Kool Kids Klub,” with a “K”—in other words, the “KKK.”

10. In ninth grade, A.A.’s classmates asked him if he was a “BBC,” meaning “big black cock.” In Social Studies, his classmates manipulated the school’s smart boards so that the words “black penis” and “black peen” appeared over and over again, and then they smirked at A.A.—the only black student in the class. In Biology, his classmates put microscope covers on their heads, stating that they were in the Klan, and telling A.A. that he could not join. A classmate asked A.A. if he wore a do-rag on his pubic hair.

11. By the end of ninth grade, A.A. was a shell of himself. He dreaded going to school, knowing that he would be bullied, humiliated, and isolated because of his race. He began to feel depressed, consider harming himself, and withdraw.

12. The stress and pain from A.A.’s mistreatment—together with other incidents his sister suffered—were overwhelming. A.A.’s family could not tolerate it any longer.

13. A.A. and his sister, B.A., began home-schooling in the fall of 2019.

14. The children’s bedroom window directly faces the high school. It was once a window of hope and big dreams, a place where their mother would lift them up and point with excitement about what life would be like as a teenager who could walk to high school and do

great things alongside their peers. A.A couldn't wait to be that teenager. But now, neither B.A. nor A.A. can bear to look in that direction. They study alone, with the curtain pulled.

15. For years, A.A., B.A., and their mother had reported the racial harassment that A.A. and B.A. faced at school. They reported it regularly, in writing, to the children's teachers, guidance counselors, assistant principals, principals, and, at the end, the Superintendent. They had in-person meetings, email chains, and phone calls. They told the School District exactly what was happening to A.A. and B.A., and they pleaded for the School District to do something to stop it.

16. The School District did not stop it. The School Board did not stop it. The schools' administrators did not stop it. Instead, Defendants made vague reassurances and offered platitudes about inclusiveness and diversity. Any action they took was insufficient to curb the daily racial harassment and discrimination A.A. and B.A. faced. Defendants were deliberately indifferent to their suffering.

17. Worse yet, though Defendants encouraged A.A. to report the racial harassment he faced, they failed to protect him from the retaliatory harassment he experienced when he came forward. Their approach exacerbated it. Defendants placed the burden on A.A.—not his classmates, teachers, or administrators—to report racist acts, then failed to address them when he did.

18. Defendants tolerated a culture in the School District where racism became the norm. Defendants did not just fail A.A. and B.A.; they failed an entire community of students who attended schools where the message was that racism is okay.

19. What happened to A.A. and B.A. should *never* happen. Not to any student. Not for any reason. Defendants are liable to A.A. and B.A. for the tremendous, irreversible harm that they caused them.

### **PARTIES**

20. Plaintiff A.A. is a 15-year-old African-American male and sues here by his next friend, parent, and guardian, C.A. At all relevant times, A.A. resided in Westchester County. He is not pleading his full address in order to protect his identity. He attended three schools within the School District: Central Elementary School from 2011-2015, Hommocks Middle School from 2015-2018, and Mamaroneck High School from 2018-2019. A.A. is currently in the 10th grade and is being home-schooled. A.A. is a natural person, a current resident of Westchester County, and a citizen of the State of New York.

21. Plaintiff B.A. is A.A.'s sister. She is a 14-year-old African-American female and sues here by her next friend, parent, and guardian, C.A. At all relevant times, B.A. resided in Westchester County. She is not pleading her full address in order to protect her identity. She attended two schools within the School District: Central Elementary School from 2012-2017, and Hommocks Middle School from 2017-2019. B.A. is currently in the 8th grade and is being home-schooled. B.A. is a natural person, a current resident of Westchester County, and a citizen of the State of New York.

22. Defendant Mamaroneck Union Free School district, an education corporation and association existing pursuant to the New York Education Law, is an independent public school district covering the Village of Larchmont, the Village of Mamaroneck, and the Town of Mamaroneck. The business address of the School District is 1000 West Boston Post Road, Mamaroneck, New York 10543. The School District is a "person" within the meaning of 42

U.S.C. §1983. Upon information and belief, the School District and each of its component schools are recipients of federal financial assistance. Central Elementary School, Hommocks Middle School, and Mamaroneck High School are schools in the District.

23. Defendant Mamaroneck Union Free School District Board of Education is a board of education within the meaning of N.Y. Educ. Law § 1804 and manages the School District. The business address of the School Board is 1000 West Boston Post Road, Mamaroneck, New York 10543. The School Board is a “person” within the meaning of 42 U.S.C. § 1983. Upon information and belief, the Board receives federal financial assistance.

24. Defendant Dr. Robert M. Shaps (“Superintendent Shaps” or “Dr. Shaps”), sued in both his official and individual capacities, is the current Superintendent of the School District. He has held this position since 2010. Dr. Shaps’s place of business is 1000 West Boston Post Road, Mamaroneck, New York 10543. As Superintendent and the District’s chief executive officer, he holds final policymaking authority for the School District with respect to day-to-day enforcement of the District’s codes of conduct and anti-bullying policies. As Superintendent, he has the ability and authority to take corrective action on behalf of the School District to stop discrimination and harassment within the School District and to discipline perpetrators of such discrimination and harassment. Dr. Shaps is a natural person and, upon information and belief, resides in the State of New York.

25. Defendant Elizabeth Clain (“Principal Clain” or “Ms. Clain”), sued in her individual and official capacities, is the Principal of Mamaroneck High School. Upon information and belief, she has held this position since 2011. Ms. Clain’s place of business is 1000 West Boston Post Road, Mamaroneck, New York 10543. As Principal, Ms. Clain has final policy making authority with respect to the day-to-day enforcement of the District’s codes of

conduct and anti-bullying policies at Mamaroneck High School. As Principal, Ms. Clain has the ability and authority to take corrective action on behalf of the School District to stop discrimination and harassment within Mamaroneck High School and to discipline perpetrators of such discrimination and harassment. Ms. Clain is a natural person and, upon information and belief, resides in the State of New York.

26. Defendant Mario Washington (“Assistant Principal Washington” or “Mr. Washington”), sued in his individual and official capacities, is the Assistant Principal of Mamaroneck High School. Upon information and belief, he has held this position at all material times. Mr. Washington’s place of business is 1000 West Boston Post Road, Mamaroneck, New York 10543. As Assistant Principal, Mr. Washington has final policymaking authority with respect to the day-to-day enforcement of the District’s codes of conduct and anti-bullying policies at Mamaroneck High School. As Assistant Principal, Mr. Washington has the ability and authority to take corrective action on behalf of the School District to stop discrimination and harassment within Mamaroneck High School and to discipline perpetrators of such discrimination and harassment. Mr. Washington is a natural person and, upon information and belief, resides in the State of New York.

#### **JURISDICTION AND VENUE**

27. This Court has jurisdiction over Plaintiffs’ claims pursuant to 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the Constitution and laws of the United States. Jurisdiction is also proper over Plaintiffs’ claims under 28 U.S.C. §§ 2201-2202 because Plaintiffs seek a declaration of their civil rights. This Court has supplemental jurisdiction over Plaintiffs’ related state law claims under 29 U.S.C. § 1367(a) because those claims arise out of the same case or controversy as Plaintiffs’ federal claims.

28. Venue is proper in this Court under 28 U.S.C. § 1391(b) because one or more of the Defendants reside within this Court’s judicial district and a substantial part of the events or omissions giving rise to the claims occurred within the judicial district.

**JURY DEMAND**

29. Plaintiffs demand trial by jury in this action.

**FACTUAL ALLEGATIONS**

30. A.A. and B.A. are not the first or only students to have suffered horrible racism in the Mamaroneck School District. The mistreatment they endured has its roots in a history of indifference to the scale of the problem the District faces.

***The School District’s Entrenched Racism Problem***

31. The District has a serious, ingrained, and institutionalized problem with racism that it has failed to address for years, despite multiple public calls for change.

32. In the past several years, the District has been the subject of multiple investigations by state and federal agencies arising from claims of racial discrimination and animosity.

33. For example, in 2018, the United States Department of Education’s Office of Civil Rights (“OCR”) began investigating an incident wherein another black student at Hommocks Middle School was called “n\*\*\*r” by a classmate. As alleged by the student’s parents, “[n]ot only did this boy feel comfortable hurling this racial epithet at [our] daughter and her two black friends (one male, one female), he also Googled the word on his phone and demanded (albeit unsuccessfully) that they read the definition.”<sup>2</sup>

34. The student’s parents launched an initiative, OneMamaroneck, to combat racial harassment in the School District. Since its launch, a “multitude of parents, former students, and

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<sup>2</sup> See <http://onemamaroneck.org> (Backstory).



community members have . . . recount[ed] similar stories of harassment, bullying, intimidation, faux investigations and careless disregard for the well-being of students by the leadership of the Mamaroneck Union Free School District.”<sup>3</sup>

35. In 2016, the New York State Education Department investigated the District following a complaint by the New York Civil Liberties Union alleging that the District discriminated against a student who had previously lived in Guatemala by refusing to enroll him. Ultimately, the State’s Education Commissioner issued an order requiring the School District to enroll the student.<sup>4</sup>

36. In 2012, OCR investigated the School District and found that Central Elementary School’s assignment of students to kindergarten classes produced a “racially disproportionate impact.” The Principal of Central Elementary School at the time, Carol Priore, was the same Principal who failed to protect A.A. from racism there. Rather than disciplining or firing Ms. Priore, the School District later promoted her to Assistant Superintendent and Dignity for All Students Act (“DASA”) Coordinator.

37. Following OCR’s decision, multiple parents spoke out, including at a Town Hall meeting, about “deeply rooted” systems of racism within the District.<sup>5</sup>

38. Parents, teachers, School Board members, and administrators have raised the School’s District’s racism problems at a number of School Board and Town Hall meetings, including several in 2019.

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<sup>3</sup> *Id.*

<sup>4</sup> See <https://www.nyclu.org/en/press-releases/immigrant-student-enrolling-today-mamaroneck-high-school-following-commissioners>.

<sup>5</sup> See Kim Stefanie, Mam’k Schools Talk Civil Rights Complaint, Patch (Oct. 3, 2012) <https://patch.com/new-york/larchmont/mamaroneck-district-addresses-community-about-civil-rb51409751a>.

39. During a meeting on February 26, 2019, speakers accused the District of having a significant racism problem, which it has systematically swept under the rug. At the same meeting, District representatives acknowledged the issue and admitted that the District needed to do better.

40. During another meeting on March 30, 2019, C.A. spoke about the racist taunting that A.A. experienced. Other parents also described rampant use of the word “n\*\*\*r” in the District’s schools.

41. At least two Board members were present at the March 30, 2019 meeting and, upon information and belief, Board members were present at other meetings as well.

42. These facts—in addition to the numerous reports (described below) made by A.A. and C.A. about A.A.’s racial bullying—all put Defendants on further notice of the severe racism problem in the School District.

43. That Defendants failed to act in response to multiple complaints of racial discrimination and harassment by multiple students is evidence of their deliberate indifference.

44. According to data from the 2015-2016 school year, the District’s student population is 70% white, 20% Hispanic or Latino, 5% Asian or Native Hawaiian/Other Pacific Islander, 4% Black or African American, and 1% multi-racial.<sup>6</sup>

***A.A. and B.A. Are Racially Harassed in Elementary School***

45. Defendants’ failure to act on earlier complaints of racial harassment in the school system directly impacted A.A and B.A.

46. A.A. is a 15-year-old boy who resides in Westchester County, New York with his mother and younger sister, B.A.

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<sup>6</sup> New York State Education Department Enrollment Data, <https://data.nysed.gov/enrollment.php?year=2016&instid=800000035418>

47. A.A. entered the School District as a second grader in 2011, when he began attending Central School, a K-5 school with approximately 500 students.

48. It did not take long for A.A. to be affected by the racism that had infected the school.

49. In the beginning, there were cards.

50. When A.A. turned nine, he received a birthday card from a classmate that read: “Being known as the ‘fun one’ of the group is a good thing unless you’re in prison.” The inside of the card read: “Happy birthday. Avoid prison.” It depicted an image of a ball and shackle, next to which the parent of A.A.’s classmate wrote “9th.”

51. In 2013, one of the students handed B.A. a Valentine’s Day card addressing her last name as “black.” B.A. wondered why she could not be addressed by her own name like her peers. C.A. reported the incident to her daughter’s teacher as something that should have been an opportunity to educate the students about racial differences. But, in a sign of things to come, the school’s response was anemic.

52. When B.A. was in second grade, other students ostracized her and did not let her join their groups. One day, a classmate shouted “Africans are Annoying!” as the other students laughed. When C.A. emailed the teacher, the teacher spoke to the individual child but she declined to put into place any proactive plan to avoid future recurrences, despite C.A.’s request.

53. That same year, when A.A. was nine years old and in fourth grade, he became the object of negative remarks directly from his fellow students. One student told him “I do not like Africans” and “I do not share snacks with brown faces,” and then proceeded to share fruit snacks with everyone present except for A.A.

54. On December 4, 2013, when A.A. was still in fourth grade, his mother C.A. emailed Carol Priore, principal of Central Elementary School, and Jacqueline Fonseca-Elias, the Central Elementary School psychologist, to report several racist comments affecting A.A., as well as several that affected her daughter. In addition to reporting comments and the racist birthday card, C.A. told the school that the incidents have affected her children's "outlook on how others perceive them and I am working hard to make sure that their self-esteem is restored."

55. The school did not take any meaningful action in response to this report of discrimination. Rather, Ms. Priore simply told C.A. that the parents and family who gave the card were good people.

56. In December 2014, when A.A. was in fifth grade, he and his classmates were playing a word game where they went through the alphabet and said words corresponding to each letter. One of A.A.'s classmates said the word n\*\*\*r for the letter N, then paused and smirked. She then said "Obama" for the letter O.

57. A.A. was so upset by these comments that he started to cry. He reported the student's comments to the teacher, who contacted C.A.

58. C.A. spoke to the student's mother, who said that she believed her daughter learned the word from her older sister, who was a student at Hommocks Middle School. The student's mother said that she was so upset about the racist remarks circulating at the middle school that she planned to remove her older daughter from that school. She ended up removing both daughters from the District altogether.

59. C.A. also emailed the student's mother to follow-up, stating that A.A. was "still disturbed by how it all transpired" and "when I asked him to repeat what he heard he broke down in tears as he would not say the word."

60. In the spring of fifth grade, several of A.A.'s classmates used the word "n\*\*\*let" on the playground at recess, smirking at A.A.

61. C.A. reported the students' use of the word "n\*\*\*let" to A.A.'s teachers, Lauren Scharfstein and Christine Sullivan.

62. Several weeks later, a classmate said "n\*\*\*r" in front of A.A., and then looked at him and said, "I'll get in big trouble, I'll pay you five bucks not to tell."

63. C.A. again reported this conduct to Ms. Scharfstein and Ms. Sullivan via email on May 31, 2015. C.A. reported that A.A. felt "unhappy, shocked, let down by peers and hurt by the language." She added that "it appears that the students were aware that the 'N' words including N[\*\*\*]let are inappropriate and hurtful. *The question remains how do we make sure that this problem does not continue and that the consequence is fitting and one that educates?*" (emphasis in original).

64. Also in the fifth grade, A.A. was sitting in class when a substitute teacher said "n\*\*\*r" aloud while reading a book about the Oregon Trail. A.A. asked the substitute teacher whether she needed to use that word, and she replied that she needed to say the word to communicate a sense of the time.

65. Two years later, when B.A. was about to enter fifth grade, her new teacher asked if there was another less complicated name or version she could call her, because her name was too long. During the year, the same teacher gave another African-American student a hard time because she thought he should use his full name, telling him that using an abbreviation was immature. B.A. often wondered if the teacher's desire to change her name was part of "Africans being annoying" or whether it was because her and the other student were "black."

***A.A.'s Racial Harassment and Discrimination Escalates in Middle School***

66. The racial harassment that A.A. experienced grew uglier and intensified as A.A. moved into Hommocks Middle School.

67. A.A.'s classmates regularly referred to him as "n\*\*\*r" in an insidious way, for example, by calling him "vinegar," but softly speaking "vi" and loudly emphasizing "n\*\*\*r."

68. In October 2015, during A.A.'s sixth-grade English class, a student, M.O., remarked out loud that "n\*\*\*rs should lick a white man's balls." A.A. was shocked and stung by the comment. He immediately sought out Hommocks Middle School's guidance counselor, Stacie Tramontozzi, to report the incident. Ms. Tramontozzi was not in her office, so A.A. left her a note describing what happened. He wrote that M.O. "knew I was in his presence" and "[a]ll through class I was hurt by that."

69. C.A. also sent an email to Ms. Tramontozzi about the incident, emphasizing that A.A. "just wants to make sure he can go to class without surprise insults, racial or otherwise, [whether] direct or indirect. That stinging and racial statement made by his classmate has been disturbing to him ever since and he explained to me how he spent the class time trying to wonder why someone would say such a racially insulting statement in his presence and in class."

70. During A.A.'s sixth grade Science class, he overheard several of his classmates talking about the word "n\*\*\*r," and one classmate said that her mother uses the word at home. A second classmate said that he heard at a party that the word is "Tigger with an N." The first student then asked the second student to teach A.A. how to say the word. When A.A. replied that he already knew it, a third student told A.A., "you are a scholar," and the first two students agreed.

71. During that same Science class conversation, the second student told the group that he is in the “Kool Kids Klub” with a “K”—in other words, the “KKK.”

72. A.A. reported this incident to Ms. Tramontozzi in a written note as well. He concluded the note by asking, “How many times is enough for the n-word to be mentioned?”

73. During A.A.’s sixth-grade French class, the students were learning words that began with the letter N, when one of A.A.’s classmates said “n\*\*\*r” out loud. A.A. again reported the incident to Ms. Tramontozzi. This same student continued to racially harass A.A. in ninth grade.

74. In June 2016, the spring of sixth grade, A.A. was racing with other students for a basketball at recess. In response to A.A. reaching the ball first, another student said: “n\*\*\*r, n\*\*\*r, n\*\*\*r,” in a loud voice so that A.A. could hear.

75. A.A. reported this incident to Ms. Tramontozzi. Instead of disciplining the student or otherwise taking steps to stop discrimination, Ms. Tramontozzi told A.A. that the student may not have been aware of the meaning—despite the fact that A.A. had already been called “n\*\*\*r” multiple times that school year, and it was clear that the students knew exactly what it meant. Ms. Tramontozzi also told A.A. that it was okay for him to feel angry about a basketball game, failing to recognize or admit that his anger stemmed from the racist comments.

76. A.A. then spoke to another guidance counselor, Daneen Payne, about the incident. Ms. Payne told A.A. that the students were “going through a phase” where they were interested in the word “n\*\*\*r.” She also said that she had heard the word used when she had attended the school many years ago too.

77. C.A. reported the basketball incident in an email to Ms. Tramontozzi as well, noting that it was part of a larger problem regarding “situations he had been facing at school.”

She wrote that A.A. “does cry about it and I can tell it does affect him as a human being who loves being who he is but gets insulted for it. The last child who blurted out n\*\*\*r three times just because he was trying to play basketball just like the other kids really hurt his feelings.”

78. Ms. Tramontozzi replied to C.A.’s email, stating that “I did share your concerns with our assistant principals and they told me to let you know that over the summer they will talk as an administrative team about these issues.” Still, nothing changed.

79. The racism that A.A. experienced in sixth grade carried over into seventh grade. For example, as C.A. emailed Ms. Tramontozzi on October 5, 2016, A.A. was very hesitant to participate in a seventh-grade field trip because he was worried that “he may experience the same situations.”

80. His fears were well-founded. During winter of seventh grade, A.A. was heading to the lunchroom when he saw two of his classmates approach another classmate on the stairs. The one student greeted the two others by saying, “hey n\*\*\*r,” and then they all smirked at A.A., who understood the term was directed at him.

81. Also in seventh grade, A.A. was with a group of boys in the locker room after swimming in gym class, when several of the students started to mimic the act of whipping slaves using towels. They also used shoelaces to mimic hangings, and a student said they could be used to “hang their black motherfucking balls.” One student told another student, “I’m whipping you like a n\*\*\*r.” Later, that same student told two others, “if you can’t tie your shoe, you’re a n\*\*\*r.”

82. A.A. reported the locker room incident to his mother and Ms. Tramontozzi. C.A. also reported the incident via email to Ms. Tramontozzi. One of the students involved in the incident was the child of a teacher in the District.



83. C.A. also discussed this incident with Robert Andrews, an Assistant Principal at Hommocks Middle School. Mr. Andrews told C.A. that the taunt was derived from watching Instagram, but that the student involved was a good child. He also told C.A. that he asked the student(s) involved to write an apology “to whom it may concern,” but A.A. never received such an apology. He felt invisible and like the school did not care about him the way it cared about other students.

84. The School District later promoted Mr. Andrews to be the DASA coordinator at Hommocks Middle School.

85. In eighth grade, two of A.A.’s classmates sat next to A.A. at lunch and repeatedly used the word “n\*\*\*r” back and forth so A.A. could hear. A.A. reported the conduct to Ms. Tramontozzi.

86. During an eighth-grade trip to Washington, D.C., a student looked at A.A. and said, “look, one black plane in the sky with all the white clouds.”

87. During the bus ride back from that trip, one of the students told a story about a student who called another “vinegar” (using the formulation “vi”- “n\*\*\*r”) then burst out laughing.

88. Also in eighth grade, while the students were learning about the Ku Klux Klan during Social Studies, some students began laughing and talking about the “Kool Kids Klub.”

89. When two of the books that A.A. and his classmates read in eighth grade English class contained the word “n\*\*\*r,” *To Kill a Mockingbird* and *Of Mice and Men*, A.A. asked his teacher if the students could avoid saying “n\*\*\*r” when reading the book aloud in class, as it made him feel uncomfortable and other students would stare at him whenever it was uttered.

A.A. also felt like he could not participate in reading the books aloud because he did not want to use the word.

90. In response, the teacher told the class that they could say “Nnnnn” instead. Throughout the time that the group was studying these two books—in class and after class—A.A.’s classmates turned, looked at him and giggled and smirked whenever the teacher or another student said “Nnnnn” and the text said “n\*\*\*r”. Later, at lunch, students were gleefully discussing how their teachers used the word in class.

91. C.A. informed Mr. Andrews that A.A. felt uncomfortable about n\*\*\*r being said during his English class during a one-on-one meeting at the school.

92. Later, C.A. raised these same English class incidents at a seventh- and eighth-grade English curriculum parents’ meeting in March 2019. Mr. Andrews and Hommocks Middle School Principal Emily Macias were present. At the meeting, Mr. Andrews said he would follow up with C.A. about the incidents. Again, he never did.

93. Throughout middle school, when A.A. had been called “n\*\*\*\*r” or other racial taunts, he cried on his walk home with B.A. or as soon as C.A. picked the two children up from school and asked how their day had been. A.A. would break down, and his crying would upset B.A.

94. Throughout the spring of 2019, B.A.—unwilling to abandon her brother—was late for school because A.A. struggled to summon the will and composure to take on another day of harassment.

95. From time to time, during this period, when the siblings walked home together they reported to their mother that other students on their path home would say “n\*\*\*\*r” and then snicker.

96. B.A.'s experiences—and those her brother recounted to her throughout her time in middle school—were deeply upsetting and poisoned the way she experienced school. Because A.A. shared his experiences of racial harassment and abuse with B.A. in and around the times they happened, B.A. internalized the abuse that her brother suffered because of how close the two siblings were.

97. For example, both children's sleep routines worsened; A.A. frequently cried during the night, waking B.A., who struggled to return to sleep because her brother was upset.

98. And sometimes, hurt by the abuse, A.A. behaved unkindly towards B.A., occasionally repeating the vulgarities used against him in anger and frustration. Hearing her brother repeat this graphic, racist language made B.A. even more fearful of what her school experience would look like in the future.

99. The mounting, cumulative impact of these experiences made it impossible for B.A. to ignore the looming context of race when she encountered a variety of other difficult circumstances at school. For example, when rarely chosen as a partner in Physical Education class or when seated with trouble-making students for extended periods of seventh grade, she wondered why she was not good enough to be rotated fairly like the other students.

100. Looking ahead, she feared she would be subjected to the same degrading experiences her brother had endured in English, Social Studies, and on class trips.

***A.A. Faces Daily, Constant Racial Harassment and Discrimination in High School***

101. After the degrading discrimination A.A. faced in middle school, he hoped things would improve in high school. Instead, they got worse. A.A. faced relentless racial harassment when he entered Mamaroneck High School, and he lost confidence that his teachers and administrators would help him. He wished the problems would go away, but they never did.

102. Throughout the fall and winter in ninth grade, A.A. experienced severe racial bullying and harassment from students in his Physical Education class. One of A.A.'s classmates made repeated sexualized and racist comments and threats to A.A. He asked A.A. if he wore a do-rag on his pubic hair. He threatened to rape A.A., telling him, "I'm going to fuck you" and "I'm going to stick a tennis racket in your ass."

103. Other students joined in this bullying of A.A. For example, another of A.A.'s classmates repeatedly harassed him for wearing a Kenya soccer shirt during Physical Education class. Every time he wore the shirt, the classmate told him, "Kenya, bend over." He also told A.A. that if he continued to wear the shirt, he would continue to make racist remarks toward him. The same student commented on the size of A.A.'s nose and lips and called him "faggot" multiple times during gym class.

104. After A.A. and C.A. reported this bullying to Mamaroneck High School, which completed a related DASA report. In February 2019, Ms. Clain sent C.A. a letter pursuant to DASA stating that the "school found evidence that your child was the target of acts of harassment, intimidation, and bullying, which included: Use of vulgar threatening language directed towards [A.A.] in the boy's locker room during PE over a long period of time." The document named one of nine students involved.

105. Also in the fall of 2018, two students asked A.A. if he was a “BBC” during Social Studies class. The students laughed and explained to A.A. that “BBC” stands for “Big Black Cock.” A.A.’s Social Studies teacher, David Lindeman, was present, but took no action in response.

106. A.A. reported the incident to his mother, who in turn reported it to Ms. Clain.

107. In reporting the “BBC” incident to Ms. Clain, C.A. requested that the complaint be kept confidential because A.A. had already faced retaliation from students after reporting other racist incidents. One of the students involved later apologized to A.A. about this incident, and he said he did not know that A.A. had been offended.

108. The harassment A.A. faced in the fall semester was so severe that A.A. requested—and the school agreed—to let A.A. switch schedules for the Spring 2019 semester so that he could be removed from some of his worst harassers. However, the switch did not make a difference. Appallingly, the school kept A.A. with some of the same teachers who failed to intervene previously (particularly, his Social Studies teacher, Mr. Lindeman). The discrimination only worsened, particularly in Social Studies, where the severe and constant racial bullying of A.A. persisted.

109. In or around the spring of 2019, during ninth grade Social Studies class, several students were looking at pictures on their phones, and then they began to ask A.A. if he wears a “do-rag” or has “waves.” Several of those same students then brought do-rags to class, and wore them while taunting A.A. They also played an instructional video of a black person tying a do-rag while in class, commenting and laughing as it played.

110. In or around the spring of 2019, these same students in A.A.’s Social Studies class began to visit black pornography sites during class, and they would loudly speak about these

sites and recite their names in front of A.A.—making clear that they wanted him to hear the conversations. They described several pornographic websites, including one called “black mamba,” and narrated scenes that they were watching out loud.

111. C.A. directly reported these incidents by email to Ms. Clain.

112. Also, in or around May 2019, several students in A.A.’s Social Studies class manipulated the classroom’s smart board system, Kahoot, to harass A.A. on the basis of his race. Kahoot is a learning game where a teacher can poll the class; students electronically submit answers, which are then displayed along with the students’ usernames. Some of the students created obscene, race-based usernames, such as “black peen” and “black penis,” which appeared on the board for all of the students to see.

113. On one occasion, the students hacked the entire system so that the username “black peen” appeared for every single student in the class. The students involved in the prank smirked at A.A. and tried to make eye contact with him, making him feel extraordinarily uncomfortable. A.A. was the only black student in the class.

114. Mr. Lindeman was present during these incidents and took no action in response. Although school administrators knew that Mr. Lindeman was a problematic teacher, they took no steps to remove him or to remove A.A. from his class.

115. Both C.A. and A.A. reported the Kahoot incidents to Ms. Clain. In response to an email from C.A. about both the pornographic websites and Kahoot incidents, Ms. Clain wrote that “Mr. Washington and I met with [A.A.] and a number of other students yesterday who confirmed [A.A.’s] account of what has been going on in Social Studies.” Ms. Clain wrote that she and Mr. Washington were planning to meet with all of the boys who are involved in the

inappropriate behavior, would be talking to their parents, and stated that “we are taking necessary actions to ensure that this behavior never happens again.”

116. Yet the only noticeable action taken in response to this report was that A.A.’s seat was moved, and he was placed at a table with only minority students.

117. When C.A. told a retired teacher from Central Elementary School about A.A.’s experience of being moved to the “minority table,” the teacher told C.A. that the administrators still used terms like “class of color” to denote a class with troubled and minority students. The retired teacher shared that non-minority parents did not want their children in such a “class of color.” She also said she was aware of two other teachers whose children endured racism in the School District—one of whom even removed their child from the school due to the issue.

118. The school admitted to C.A. that they knew they had a problem with Mr. Lindeman, but had failed to remedy it. When C.A. spoke to Ms. Clain about the Kahoot incident and resulting seat change in June 2019, she said that both never should have happened. Ms. Clain told C.A. that “95% of what happened in that class this year would never have happened if there had been a teacher who had been on his game.” Ms. Clain added that the teacher’s conduct had been “egregious,” that the teacher allowed things to occur in the classroom that were “outrageous,” and that there was a “proliferation” of “insidious” and “highly inappropriate” comments made that year to people of color.

119. Even other parents seemed aware of the rampant racism. When A.A. was in ninth grade, C.A. called another parent to inform her that several students used the word n\*\*\*r in her home in front of A.A.—specifically in their videogame usernames. The parent told C.A. that her son admitted that the word n\*\*\*r was used frequently among his peers and at school. Although

the parent said she asked her son why he did not delete the racist videogame usernames, the parent also said that A.A. should just get used to hearing the word.

120. A.A.'s racial abuse was not limited to Social Studies class. In or around May 2019, and shortly after the Social Studies incidents, A.A. faced more racial discrimination while in biology class. He and other students were about to use microscopes for an experiment when one of the students placed a microscope cover on his head and stated that he was forming the KKK. At least three students followed his lead, placing microscope covers on their heads. Other students were laughing and encouraging the behavior. One of the students asked A.A. if he wanted to join the KKK. A.A. did not respond. One student, J.W., then stated that A.A. could not join the Klan. A.A.'s biology teacher, Vibha Palekar, was present in the classroom when this incident occurred and did nothing.

121. A.A. and C.A. both reported this incident to Ms. Clain. Ms. Clain responded by email that she was "deeply disturbed" that A.A. "hears these kinds of comments around the school," and she stated that the school is "committed to erasing these behaviors, comments, and attitudes."

122. Instead of helping, the repeated reports that A.A. and C.A. made to the school only made matters worse, as A.A.'s peers retaliated against him for informing school administrators of the racial discrimination he suffered. As C.A. wrote to Ms. Clain on May 24, 2019, "Since we last communicated, [A.A.] has been accused by his peers for terminating the use of Kahoots. He has also been accused of reporting various incidents and thereafter mocked. Right after you investigated the Kahoots incident he also got moved to a different table in Social Studies (all minorities) and the students played mind games discussing scenarios and then saying to him 'are you going to tell? . . . we are just kidding.'" C.A. further reported to Ms. Clain that



A.A. “felt uneasy stopping by Mr. Washington’s office to report or update on incidents since he is getting adverse reactions from students.”

123. Throughout ninth grade, Ms. Clain and Mr. Washington put the burden on A.A. and asked him to report directly to them regarding racial harassment that he experienced at school. Ms. Clain and Mr. Washington specifically instructed A.A. to provide verbal reports of his harassment, and not to take notes or send them emails. They instructed A.A. to meet with them during his lunch on Fridays to update them on any discrimination that he experienced during that week.

124. A.A. felt deeply uncomfortable during these reporting sessions. He had already expressed discomfort repeating sexual, vulgar words to administrators, including Ms. Clain (in response to which Ms. Clain told A.A., in their first face-to-face meeting, “this is not a Jesuit or Muslim school”), and he felt like there was unfair onus placed on him to report incidents experienced by entire classrooms full of students in the presence of faculty members. Administrators also tried to get A.A. to report that the students were not making racist comments to him directly, even though A.A. felt like the students *were* making racist comments to him directly or were specifically seeking his attention by speaking loudly, smirking at him, and making eye contact with him.

125. Administrators also failed to discuss with A.A. how the racism was making him feel emotionally, and they did not take any steps to help him cope with it.

126. Still, following their instructions, A.A. reported to Ms. Clain and Mr. Washington nearly every Friday for several months in or around the Spring of 2019, each time complaining about various incidents of racial discrimination that had occurred that week. But the only effect of the reporting was to worsen A.A.’s harassment, as students began to harass him for reporting

them and refused to include him in group activities during Social Studies class. Neither Ms. Clain nor Mr. Washington—nor anyone else within the School District—took any meaningful steps to stop the discrimination. Eventually, A.A. had to stop speaking to Ms. Clain and Mr. Washington because the backlash he was facing was so intolerable, and the school was not doing anything to stop the conduct.

127. Throughout this period, B.A. absorbed and internalized her brother's pain. And she experienced her own evidence of racial insensitivity in the District. For example, C.A. reported to the school that a student in B.A.'s Social Studies class compared slaves to monkeys. As C.A. explained in a June 2019 email to administrators, that should have been a teachable moment for all students. Instead, students just gossiped about the comment at lunch and recess and repeated the narrative in front of C.A.'s daughter during orchestra class, in the hallways, and in math class, as B.A. tried to focus on her schoolwork.

128. Further, the Social Studies teacher—who insisted, contrary to all accounts, that the comment was about chimpanzees, not monkeys (as if that made it acceptable)—made no effort to address how the comments affected C.A.'s daughter. Instead, he focused on what parents would think about him. He even went so far as to ask C.A. to contact the parents she had spoken to and clarify the incident from his perspective. Ms. Priore and Hommocks Middle School Principal Emily Macias interviewed A.A.'s sister about this incident, but they did not ask her how it impacted her. They never informed C.A. of the outcome of any investigation, if any.

129. As he had in middle school, A.A. shared his experiences of high school racial harassment and abuse with B.A. in and around the times they happened. As she had in middle school, B.A. internalized these instances of discrimination as if they had happened to her.

***A.A. and B.A. Reach a Breaking Point***

130. By June of 2019, the relentless harassment, bullying, and discrimination became too much.

131. A.A.'s entire educational experience was overshadowed by the never-ending cycle of racism, reporting to the school, and then further racism and retaliation as a result of his reporting. He was too distracted and exhausted to concentrate in class, and he had to put in extra work on nights and weekends to keep his grades up—to the point where he had to cut back on other afterschool and weekend activities. He was denied his right to a public education.

132. B.A. was overwhelmed by the emotional impact on her brother and began to feel depressed and despondent.

133. The racial harassment at the School District was intolerable. A.A. begged his mother to withdraw him from school. She agreed, and A.A. and B.A. began a homeschooling program in the fall of 2019. A.A. was a sophomore. B.A. was in eighth grade.

134. In an email to Ms. Tramontozzi and another school counselor, Helaine Lichtenstein, in the fall of 2019, C.A. wrote that “it is a sad time for me as a parent to face and accept that my children cannot be a part of a school system (like other children) that I patiently tried to work with. But it has been even sadder to witness hurting children who go to school only to be racially tormented year after year. Hearing [A.A.] say he cannot peel off his skin and therefore would rather not exist if he has to endure the repeated racial torment is unacceptable to any one who values human life let alone that of a child” (emphasis in original).

135. C.A. informed the District's superintendent, Defendant Dr. Shaps, that she was withdrawing A.A., as well as B.A., from school because of the negative psychological impact they experienced from severe racial harassment and bullying.

136. When A.A. and B.A. sought to loan textbooks from the School District for their home-schooling curriculum, the School District refused to loan them books. The District also refused to loan them instruments to continue their musical studies.

137. For years, A.A. and C.A. made specific, substantiated complaints to the School District about racial discrimination and harassment experienced by A.A. and B.A. from elementary school through high school. They made complaints at every level of the school administration—from teachers to principals and administrators. Defendants knew that A.A. faced daily racial harassment and bullying that was so severe that it denied both A.A. and B.A. access to a public education.

138. Despite A.A.'s persistent complaints, Defendants did not stop the racial harassment and bullying. A.A.'s reporting only fueled further racial harassment and discrimination, as his classmates began to bully him for reporting their conduct. Even as Defendants were aware of the harassment, it increased over time in its intensity and effect on A.A. and B.A.

139. Defendants' response to the family's repeated, specific reports of racial harassment and discrimination was so woefully insufficient that their conduct amounts to deliberate indifference. Whatever steps, if any, that Defendants took in response to the discrimination had no effect, as evidenced by the fact that racial harassment persisted—even as both A.A. and C.A. were having regular meetings with Ms. Clain and Mr. Washington to report the conduct.

140. Defendants did not take actions to protect A.A. and B.A. from racial harassment and bullying or otherwise create a safe, inclusive learning environment for them.

***A.A. and B.A. Suffered Devastating Emotional Harm***

141. Defendants' actions have caused A.A. and B.A. tremendous and irreversible damage.

142. A.A. was previously a bright, happy, self-confident student who loved school and learning.

143. As a result of Defendants' deliberate indifference to the racial discrimination that A.A. faced at school, A.A. has become withdrawn, quiet, despondent, and depressed. His self-worth is severely diminished.

144. Now, A.A. has no desire to interact socially with other students his age. He has lost interest in activities that he previously enjoyed, such as playing his saxophone in a band and going out for pizza or elsewhere in his community. A.A. is fearful of attending any school—even if it is not Mamaroneck High School—because he believes that he will be harassed because of his race.

145. The racism has also affected A.A.'s entire family, as B.A. also became fearful and unwilling to attend school. The hurt they have experienced has shaken their family unit to its core.

146. The harm A.A. and B.A. experienced is wide-ranging.

147. Both A.A. and B.A. have repeated nightmares relating to their harassment, and both have lost trust in adults after school supervisors did nothing to stop the racist abuse.

148. A.A.—a talented musician and saxophonist—eventually turned down a music scholarship because he could not face participating in school activities with peers who had taunted him or stood by and watched. B.A., who is also musically gifted, lost the sense of community she had with A.A. when the two used to rehearse together.

149. Because they fear further harassment and abuse, both A.A. and B.A. are now reluctant to leave their house for any reason at all. They will not ride their bikes, walk to the store, go to the park, or meet friends. While A.A. and B.A. continued to participate in P.E. as homeschoolers, they will not attend sponsored tournaments which are attended by the same peers who mocked and harassed them.

150. When A.A. and B.A. are forced to pass by the school or see their peers, they experience severe stress and even panic.

151. On one occasion, A.A. had a panic attack when the family went to a favorite pizza shop across from the high school.

152. On another occasion, the family's walk home coincided with the end of the middle school day. When B.A. realized she might have to see or interact with her former schoolmates, she begged C.A. to turn back, ultimately growing so distressed that she urinated on herself.

153. These persistent and severe fears mean that A.A., B.A., and C.A. are essentially captive in their home, unable to live their lives fully.

154. Because of their traumatic experiences at the school, neither A.A. nor B.A. can imagine returning to school, or even attending college.

155. A.A. and B.A. have been deprived of their right to an education. For most of ninth grade, A.A. was unable to focus in class because he was too distracted by the constant racial harassment and bullying. B.A. has been devastated by her brother's harassment and her own experiences of racial intolerance at school. Now that they are home-schooled, they are deprived of the benefits that come from learning in a school setting with teachers and peers.

156. The damages that Defendants caused A.A. and B.A. are permanent. They will forever be scarred by the racism they experienced.

**FIRST CAUSE OF ACTION**

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*  
Discrimination on the Basis of Race

157. Plaintiffs incorporate by reference all proceeding paragraphs.

158. Upon information and belief, the School District, the School Board, and each school within the District attended by A.A. and B.A. are recipients of federal financial assistance.

159. The acts and omissions of the School District and School Board, which include acts and omissions of the School District officials and employees, violated A.A.'s and B.A.'s rights under Title VI by discriminating against them on the basis of their race.

160. School District officials had actual notice that the harassment A.A. and B.A. experienced based on race was so severe, pervasive, and objectively offensive that it created a hostile climate based on race that deprived A.A. and B.A. of access to educational programs, activities, and opportunities.

161. The School District and its policymakers, officials, and other employees exhibited deliberate indifference to the harassment of A.A. and B.A. based on race in violation of Title VI. Through their unlawful deliberative indifference, the School District and School Board caused A.A. and B.A. to be subjected to the above-described race discrimination.

162. The School District's and the School Board's violations of Title VI were the actual, direct, and proximate cause of injuries suffered by A.A. and B.A. as alleged.

163. A.A. and B.A. request judgment in their favor against the School District and School Board as set forth in the Prayer for Relief.

**SECOND CAUSE OF ACTION**

42 U.S.C. § 1983 – U.S. Constitution Amendment XIV  
Denial of Equal Protection on the Basis of Race

164. Plaintiffs incorporate by reference all preceding paragraphs.

165. Defendants, acting under color of state law, have deprived A.A. and B.A. of the rights, privileges, or immunities secured by the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution, in that Defendants, without justification, have intentionally discriminated against A.A. and B.A. on the basis of race.

166. Each of these Defendants had actual knowledge that the harassment A.A. and B.A. experienced based on race was so severe, pervasive, and objectively offensive that it created a hostile climate that deprived A.A. and B.A. of access to educational programs, activities, and opportunities.

167. The practices, policies, or customs of the School District, School Board, and their policymakers for responding to such harassment based on national origin were so clearly unreasonable that each of the Defendants named in this action intended for the harassment to occur.

168. The practices, policies, or customs of the School District, School Board, and their policymakers have substantially contributed to the creation of a pervasively racist climate in the School District and exacerbated the epidemic of race-based harassment in District Schools.

169. Defendants also failed to adequately train School District staff about policies prohibiting harassment and discrimination on the basis of race. Defendants' failure to train caused A.A. to be subjected to discrimination and harassment on the basis of race.



170. The violations of A.A.'s and B.A.'s rights under the Fourteenth Amendment by Defendants were the actual, direct, and proximate cause of injuries suffered by A.A. and B.A. as alleged.

171. A.A. and B.A. request a judgment in their favor against Defendants as set forth in the Prayer for Relief.

**THIRD CAUSE OF ACTION**  
New York Civil Rights Law §§ 40-c and 40-d  
Discrimination Based on Race

172. Plaintiffs incorporate by reference all preceding paragraphs.

173. The acts and omissions by Defendants described above subjected A.A. and B.A. to discrimination based on race in the exercise of their civil right to education under New York law.

174. Defendants' acts and omissions also aided and incited unlawful discrimination against A.A. and B.A. by others based on race in the exercise of his right to education under New York law. These acts and omissions were undertaken recklessly and with the intent to engage in wrongful conduct.

175. These violations of A.A.'s and B.A.'s rights under the New York Civil Rights Law are the actual, direct, and proximate cause of injuries suffered by A.A. and B.A. as alleged herein.

176. Plaintiffs have complied with the procedural requirements of New York Civil Rights Law § 40-d by serving notice upon the State Attorney General at or before the commencement of the action.

177. By this action, A.A. and B.A. seek to vindicate the public interest by enforcing fundamental state civil rights protections for students, including students who face discrimination and harassment at school based on race.

178. A.A. and B.A. request judgment in their favor against Defendants as set forth in the Prayer for Relief.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request judgment against Defendants as follows:

a. Declaring that Defendants Mamaroneck Union Free School District and the Mamaroneck Union Free School District Board of Education have been deliberately indifferent to known acts of discrimination and harassment on the basis of race, and that the discrimination was so severe, pervasive, and objectively offensive that it effectively barred Plaintiffs' access to an educational opportunity or benefit in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*;

b. Declaring that Defendants have been deliberately indifferent to known acts of discrimination and harassment on the basis of race in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, and the New York Civil Rights Law §§ 40-c and 40-d;

c. Permanently enjoining Defendants from engaging in unconstitutional and unlawful acts, and to develop policies and procedures for ending any such unconstitutional and unlawful acts and the hostile and intolerant environment;

d. Granting Plaintiffs compensatory and statutory damages against Defendants;

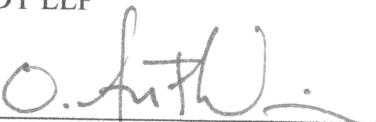
e. Awarding Plaintiffs their expenses and costs, including reasonable attorneys' fees;

f. Awarding Plaintiffs pre-judgment and post-judgment interest; and

g. Awarding such other relief as the Court deems just and proper.

Dated: New York, New York  
May 18, 2020

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