

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

ALEX YOUNG and TOSCHIA MOFFETT,)
individually, and as parents of INDIA YOUNG,)
)
)
Plaintiffs,)
)
vs.)
)
RICHLAND COUNTY SCHOOL DISTRICT)
ONE,)
)
Defendant.)

Case No.: 3:17-cv-02211-CMC

**COMPLAINT
(Jury Trial Demanded)
(Title VI of the Civil Rights Act of 1964,
42 U.S.C. §§ 2000d *et seq.*)**

Plaintiffs, by and through their undersigned counsel, allege as follows:

Introduction

1. This action is brought pursuant to Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d *et seq.* This is an action for injunctive relief, damages, and attorneys’ fees and costs incurred in bringing this action for Defendant Richland County School District One’s (Richland One’s) deliberate indifference to the severe, pervasive, and/or objectively offensive race-based harassment that deprived Plaintiff India Young¹ of access to educational opportunities and benefits.

2. Plaintiff India Young faced continuous and escalating race-based verbal and physical harassment from her peers when she attended Hand Middle School during the 2015–2016 and 2016–2017 school years. Hand Middle School students called India racial slurs and physically assaulted her on numerous occasions.

¹ The minor plaintiff’s name has already been published online. *See* Ron Aiken, *Hell At Hand Middle: Assaults, Gang Bullying, Lack of Discipline Alleged By Parents, Students*, Quorum, available at <http://quorumcolumbia.org/2017/06/15/hell-at-hand-middle-assaults-gang-bullying-lack-of-discipline-alleged-by-parents-students/> (last visited Aug. 18, 2017). The Quorum article is attached to this complaint as Exhibit 1.

3. Defendant Richland One had actual knowledge of the race-based harassment India Young experienced, and to the extent Defendant Richland One responded to any of the harassment India experienced, it had actual knowledge that its remedial measures were inadequate.

Parties, Jurisdiction, and Venue

4. Plaintiffs Alex Young and Toschia Moffett are the parents of India Young and reside with their minor daughter in Richland County, South Carolina.

5. Defendant Richland County School District One (hereinafter “Richland One”) is a political subdivision of the state of South Carolina and is in charge of public education within the geographical zone of Richland County. Richland One is a recipient of “Federal financial assistance,” as contemplated by , 42 U.S.C. §§ 2000d *et seq.* Richland One’s principal offices are in Columbia, South Carolina.

6. Jurisdiction is proper pursuant to 28 U.S.C. §§ 1331 and 1343.

7. The United States District Court of the District of South Carolina is the proper venue for this action because Plaintiffs reside in Richland County and Richland One is located in Richland County.

Background

8. India came to Hand Middle School in the fall of 2015, shortly after her active-duty Army father was transferred to Fort Gordon.

9. Although approximately 50 percent of the students at Hand Middle School identify as African American, India was one of the few African Americans in her honors and advanced classes during the 2015–2016 and 2016–2017 school years.

Verbal Harassment

10. The verbal bullying and harassment began almost immediately. Hand Middle School students called India racial slurs like “Oreo,” “white girl,” “wannabe white girl,” and “black white bitch,” and generally maligned her for “acting white.”²

11. According to Professor Kimberly Jade Norwood,

It is not uncommon to hear stories by Black students that others have called them “Oreos,” accused them of *acting White*, or accused them of “not really being Black” when they engaged in behaviors like doing homework, going to class, and performing well in school. Accusing a Black person of *acting White* is an attack on the person’s racial identity and is really part of a larger problem [Professor Norwood] call[s] Blackthink. Blackthink is a form of discrimination. It is practiced by a group of individuals . . . who judge Blackness, *i.e.*, who decide whether a given individual is really Black.

Kimberly Jade Norwood, *Blackthink’s™ Acting White Stigma in Education and How it Fosters Academic Paralysis in Black Youth*, 50 Howard L.J. 711, 717 (2007) (footnotes omitted) (emphasis in original).

12. These racial slurs constitute harassment and bullying under the Richland One Harassment, Intimidation or Bullying Policy (Code JICFAA).

Physical Harassment

13. The same groups of students who hurled racial slurs at India also targeted her for physical assaults.

14. Hand Middle School cameras recorded many of these physical assaults, either partially or in their entirety.

² Although less well known than the n-word, these are also racial slurs directed toward African Americans. See Jacquelyn L. Bridgeman, *Defining Ourselves for Ourselves*, 35 Seton Hall L. Rev. 1261, 1270 (2005) (“[W]hen someone calls a person an ‘Oreo,’ what that person is literally saying is that the person to whom he or she is referring is Black on the outside, but White on the inside. In other words, while the person may physically appear to be Black, that person embodies what is considered to be White. The derogatory meaning of this term derives from the presumed ‘Whiteness’ within.”).

15. In the 2015–2016 and 2016–2017 school years, India was repeatedly pushed, shoved, and tripped in hallways and other locations around Hand Middle School.

16. Those same students chased her during recess and unsupervised periods during physical education.

17. In addition to being repeatedly pushed, shoved, and tripped in hallways and chased during recess and physical education, India also suffered several notable physical assaults.

18. In or around October 2015, a group of three female students attempted to push India down a flight of stairs. These same students had verbally accosted India on prior occasions and continued to do so after the assault.

19. Later in the 2015-2016 school year, a male student forcefully hit India in the back of the head in Mrs. Miller’s classroom.

20. In November 2016, a male student violently shoved India into a table. Moments later, a female student slapped India in the face, knocking her glasses to the ground.

21. On the following day, the same female student who had slapped India in the face kicked India’s rear end with such force that she had to visit the doctor and experienced difficulty sitting for a month.

22. On or about February 9, 2017, students threw water in India’s face.

23. On or about February 10, 2017, a group of approximately 12 students surrounded India while she was beaten with a bottle.

24. In or around early March 2017, a male student called India a “black white bitch” and hit her during physical education.

25. On March 17, 2017, the same male student who shoved India in November 2016 hit her in the face with a backpack. The blow from the backpack “chip[ed] two teeth and caus[ed] her

nose to gush blood. The incident was caught on video and the school promised to keep [the male student] away from India.” Exhibit 1, Ron Aiken, *Hell At Hand Middle: Assaults, Gang Bullying, Lack of Discipline Alleged By Parents, Students, Quorum*, available at <http://quorumcolumbia.org/2017/06/15/hell-at-hand-middle-assaults-gang-bullying-lack-of-discipline-alleged-by-parents-students/> (last visited Aug. 18, 2017).

26. India returned to school after the backpack incident on or around March 27, 2017. The verbal and physical harassment continued.

27. On the same day India returned, the male student who hit her in the face with the backpack followed India to the auditorium and intimidated her during theater rehearsal.

28. After she returned, students pushed India in the hallway at least two more times, and she continued to face verbal harassment.

29. On or about May 7, 2017, a group of students who had harassed India on prior occasions chased her behind a tree and taunted her. The 7th-grade principal informed India’s mother that India should have been on the other side of the playground. At this point, India’s parents made the decision that it would be best for India to finish the remainder of the school year from home.

30. These incidents constitute harassment, intimidation, and/or bullying under the Richland One Harassment, Intimidation or Bullying Policy (Code JICFAA).

Loss of Educational Opportunities and Benefits

31. For nearly two full school years, India was deprived of a supportive, scholastic environment free of race-based antagonism and harassment.

32. The harassment India experienced forced her to finish the 2016-2017 school year from home.

33. India missed a full week of school after she was hit in the face on March 17, 2017.

34. India developed anxiety, stress, and self-esteem issues that negatively impacted her educational experience and played a role in her missing several days of school.

35. In or around January 2017, India began eating her lunch crouched over a toilet in a bathroom stall to avoid the harassment and bullying she faced in the cafeteria.

Defendant Richland One Was on Notice of the Harassment

36. India and her parents reported the verbal harassment and bullying to school and district-level staff and administrators on numerous occasions throughout the 2015–2016 and 2016–2017 school years.

37. Many of the incidents of physical harassment were either captured on video or corroborated by witnesses.

38. Many of the incidents of verbal harassment were corroborated by witnesses.

39. One or more Hand Middle School teachers reported one or more incidents of verbal and physical harassment to the Hand Middle School principals and/or their respective designees on multiple occasions during the 2015–2016 and 2016–2017 school years.

40. India's parents attempted to set up a meeting with Richland One superintendent Dr. Craig Witherspoon on multiple occasions. They attempted to talk to Witherspoon after a school board meeting, but Witherspoon slipped out before speaking to them. Witherspoon was overheard saying that he was avoiding them.

41. On February 10, 2017—the month before the backpack incident—India's father emailed every school board member to notify them of the severity of the situation and request help.

The email reads, in part,

I need some help. I am an active duty military soldier and I need some help, I cannot instruct my soldiers during the day for fear of what is happening to my child. My

daughter, India Young has been consistently physically abused by students at Hand Middle School and the administration will not do anything about it. They may send a kid to ISS but they come right out and do it again. She has been pushed in a wall by a boy, kicked in the butt by a young lady, the same young lady went to ISS came out the next day and slapped her glasses off. Nothing happened to them. She has been mocked, told that she "talks like a white girl," and tortured. She had water thrown in her face yesterday and today was beaten in the back of the head with a Lipton tea bottle with over 12 kids surrounding her. This is just the tip of the iceberg. The administration is stating the children are being reprimanded yet, the same kids keep doing it and other kids do it as well. Other kids are being bullied as well. Please help my family! My daughter is severely depressed, does not want to come to school for fear of getting beat up every day and her therapist is appalled. I expect more from an award winning school.

Defendant Richland One Was Deliberately Indifferent to the Harassment

42. The standard for finding deliberate indifference to acts of student-on-student harassment is whether "the [school district's] response to the harassment or lack thereof is clearly unreasonable in light of the known circumstances." *See Davis ex rel. LaShonda D. v. Monroe Cnty. Bd. of Educ.*, 526 U.S. 629, 648 (1999).

43. When a school or school district has knowledge that its remedial measures are ineffective, failure to do more constitutes deliberate indifference.

44. To the extent Defendant Richland One took any remedial measures to address the race-based verbal harassment and bullying, they were ineffective.

45. As India's father mentioned in his February 10, 2017 email to Richland One school board members, students would be sent to in school suspension (ISS) for harassing India, return from ISS, and continue to harass her.

46. Similarly, students who harassed India and received verbal reprimands continued to harass her.

47. Defendant Richland One had actual knowledge that its remedial efforts were ineffective due to the fact that it continued to receive notice that India was being harassed by the same group of students.

**Count I
(Violation of Title VI)**

48. Plaintiffs realleged the allegations in paragraphs 1 through 47 as though fully set forth herein.

49. Plaintiff India Young has a protected right to be free from race-based discrimination and harassment under Title VI of the Civil Rights Act of 1964.

50. During the 2015-2016 and 2016-2017 school years, India was subjected to regular discrimination, harassment, and bullying from other students at her school due to her race.

51. This race-based harassment created a hostile educational environment.

52. Defendant Richland One had actual notice of the racial hostility occurring at Hand Middle School. Numerous incidents were reported to school and district-level staff and administrators, as well as the police department.

53. Defendant Richland One either failed to address incidents of race-based harassment or had actual knowledge that whatever remedial measures it took to address the race-based harassment were ineffective.

54. As a direct and proximate cause of the hostile educational environment that was allowed to flourish due to Defendant Richland One's deliberate indifference, Plaintiff India Young experienced such severe, pervasive, and/or objectively offensive race-based harassment that she was deprived of equal access to educational benefits or opportunities provided by Defendant Richland One.

Jury Demand and Prayer for Relief

WHEREFORE, Plaintiffs hereby demands a trial by jury and request that this Court:

- a. Order Defendant Richland One to adopt and implement the Olweus Bullying Prevention Program or some other evidence-based bullying prevention program. *See* Exhibit 2 (Olweus Bullying Prevention Program Information).
- b. Order Defendant Richland One to accurately document instances of verbal and physical harassment.
- c. Order Defendant Richland One to implement a student behavior contract that is signed by students' guardians.
- d. Award compensatory damages sustained by Plaintiffs against Defendant Richland One in an amount to be determined at trial.
- e. Award attorneys' fees and costs and expert fees as provided for in 42 U.S.C. § 1988 and Fed. R. Civ. P. 54(d)(1).
- f. Award such other and further relief as this Court may deem just and proper.

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Charleston, South Carolina