

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

**E.R.,**

**Plaintiff,**

**v.**

**BEAUFORT COUNTY SCHOOL  
DISTRICT,**

**Defendant.**

IN THE COURT OF COMMON PLEAS FOR  
THE FOURTEENTH JUDICIAL CIRCUIT

CASE NO: 2022-CP-07-02157

**FIRST AMENDED COMPLAINT**

Jury Trial Requested

Plaintiff E.R., by and through undersigned counsel, pursuant to Rule 15(a), SCRCPP, as a matter of course files this Amended Complaint against Defendant Beaufort County School District (hereinafter “the School District” or “BCSD”).

### **JURISDICTION AND VENUE**

1. Plaintiff E.R. is currently citizen and resident of Florida. At all times relevant to this matter, she was a citizen and resident of Beaufort County, South Carolina and student enrolled at BCSD. Plaintiff is identified pseudonymously due to the very sensitive nature of the facts alleged herein, which involve sexual assault and rape of Plaintiff when she was a minor.
2. Defendant BCSD is a public educational institution located in Beaufort County, South Carolina.
3. Jurisdiction and venue are appropriate in this Court because Defendant is located in Beaufort County and the most substantial part of the events giving rise to this matter occurred in Beaufort County.

### **FACTS**

4. At all material times, the School District was a recipient of federal funding, as contemplated by Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, *et seq.* (“Title IX”).

5. Plaintiff enrolled in BCSD starting in 3rd grade when her mother and father accepted positions working for the School District.
6. At the times of the incidents complained of herein, Plaintiff was a high school student at BCSD, first at Bluffton High School, then in Medical Homebound instruction, and ultimately at Hilton Head Island High School.
7. At all times relevant hereto, Plaintiff was a gifted, talented, and well-behaved student at BCSD. Despite the adversity described herein, she was able to graduate ranked 10 out of 243 in her class. She is currently enrolled in college.
8. Plaintiff's father formerly was an administrator within BCSD. Plaintiff's mother was a teacher within BCSD.
9. Beginning around 2015, when she was fourteen years old, Plaintiff was victimized by four different male students in her high school. The incidents ranged from forced fellatio to vaginal and anal rape and occurred over the course of approximately two years.

Male 1 Sexual Assault

10. During the 2016-17 school year, Plaintiff was a freshman at Bluffton High School.
11. "Male 1" was a sophomore at Bluffton High School on the track team.
12. Male 1 forced Plaintiff to perform fellatio on him.
13. Plaintiff disclosed this incident to the guidance counselor who was also her volleyball coach.
14. The guidance counselor/coach was required by law to make a report of the sexual abuse to an appropriate law enforcement agency.
15. Instead of reporting Male 1's sexual assault on Plaintiff, the guidance counselor/coach told Plaintiff to stay away from Male 1.

16. Word of the incident spread around school, resulting in bullying, harassment, and sexual harassment of Plaintiff by other students.
17. Plaintiff's mother addressed the bullying, harassment, and sexual harassment of Plaintiff with agents and employees of the School District.
18. The School District took no action to address the bullying, harassment, and sexual harassment of Plaintiff.
19. Upon information and belief, the only action taken by an employee or agent of BCSD toward Male 1 was for someone to tell him "don't do it again."
20. A few months later, Male 1 sexually assaulted a special needs student at school and was suspended.

Male 2 Sexual Assault

21. During the 2016-17 school year Plaintiff was sexually assaulted by Male 2.
22. "Male 2" was 18 years old at the time. Plaintiff was 14 years old.
23. Male 2 sexually assaulted Plaintiff outside of school.
24. Again, word of the sexual assault spread around school and Plaintiff was subjected to bullying, harassment, and sexual harassment by other students.
25. In retaliation for Plaintiff complaining of the sexual assault, Male 2 physically assaulted Plaintiff at school by putting her in a headlock and dragging her.
26. Plaintiff's mother and Plaintiff reported the assault to the School Resource Officer, who was able to observe the assault on school surveillance video.
27. No action was taken against Male 2.
28. Plaintiff's mother and Plaintiff reported the bullying, harassment, and sexual harassment by other students to agents or employees of BCSD.

29. No action was taken in response.

Male 3 Rapes

30. In or around August 2017, Plaintiff was starting or had just started her sophomore year at Bluffton High School. She was 15 years old.

31. "Male 3" was a 19 year old senior, having been held back, and was a star football player at Bluffton High School.

32. Male 3 raped Plaintiff on two occasions in August 2017. The first time was vaginally, causing Plaintiff to bleed. The second was anally, resulting in Plaintiff passing out.

33. Male 3 was in a relationship with a senior girl, "Female 1" at the time.

34. Female 1 and her friends retaliated against Plaintiff by bullying, harassing, sexually harassing, and physically assaulting her at school. They learned Plaintiff's schedule and would target her in the hallways between classes.

35. Plaintiff and Plaintiff's mother went to the school to report the rape by Male 3 and the conduct of Female 1 and her friends.

36. An agent or employee of BCSD told Plaintiff not to report the rape by Male 3 because it would result in him losing his football scholarship.

37. Plaintiff's mother reported the rape to local police. However, based on the horrific guidance of BCSD's employee or agent, Plaintiff refused to provide a statement.

38. BCSD failed to take any action against Male 3 or Female 1 and her friends.

39. BCSD did not offer therapy at school to Plaintiff.

40. Plaintiff was diagnosed with PTSD and Major Depressive Disorder by a psychologist and psychiatrist.

41. Plaintiff began to suffer academically and otherwise at school as a result of the ongoing bullying that now involved physical assaults as well.
42. On August 31, 2017 Plaintiff's parents requested a "504 Meeting" to put in place a "504 Plan" for Plaintiff.
43. BCSD did not grant the request for a 504 meeting until October 9, 2017.
44. A 504 Plan allowing certain academic accommodations was put in place.
45. The 504 Plan was not honored or followed by agents and employees of BCSD.
46. Due to the ongoing bullying, harassment, sexual harassment, physical assaults, and nonobservance of the 504 Plan, and based on her doctor's recommendation, Plaintiff's parents took Plaintiff out of school to finish the Fall 2017 semester with Medical Homebound Instruction.
47. BCSD failed to deliver math instruction during much or all of Plaintiff's Medical Homebound Instruction.
48. Plaintiff ultimately transferred school to Hilton Head Island High School.
49. As a result of BCSD's clearly unreasonable response to the bullying, harassment, sexual harassment, and physical abuse stemming from the sexual assaults and rapes on Plaintiff, Plaintiff sustained substantial emotional, psychological, and physical damages and interference with her education.
50. Prior to filing suit, Plaintiff requested from BCSD a copy of her complete school records, including all reports, notes, meeting notes, correspondence about Plaintiff, etc. pursuant to the Family Education Rights and Privacy Act. The records produced by BCSD have zero documentation of any response by BCSD to the above-described incidents other than a single mention of Plaintiff being "assaulted last year" in the 504 Meeting Minutes.

**FIRST CAUSE OF ACTION: VIOLATION OF TITLE IX**

51. The allegations above and below are incorporated by reference into this cause of action to the extent they are not inconsistent with the following.
52. Plaintiff was sexually assaulted at the hands of one or more students of BCSD.
53. Other students at BCSD learned of the sexual assault(s) and bullied, harassed, and sexually harassed Plaintiff about them.
54. Plaintiff and her parent(s) reported the sexual assault(s) and bullying, harassment, and sexual harassment to BCSD administrators and employees.
55. BCSD had actual knowledge that Plaintiff was the victim of sexual assault(s) and bullying, harassment, and sexual harassment by BCSD students.
56. BCSD was obligated to address these reports because student-on-student sexual assault, and bullying, harassment, and sexual harassment about a sexual assault are all forms of sex discrimination prohibited by Title IX.
57. The sex-based harassment articulated above was so severe, pervasive, and objectively offensive that it created a hostile educational environment for Plaintiff and deprived her of access to educational opportunities or benefits provided by the school.
58. Individuals with actual knowledge of the sexual assault(s) and the related bullying, harassment, and sexual harassment had the authority, ability, and responsibility to investigate and take corrective action to address them.
59. BCSD had substantial control over the student(s) who sexually assaulted Plaintiff.
60. BCSD's disciplinary actions, or lack thereof, against the student(s) who sexually assaulted Plaintiff were clearly unreasonable in light of the known circumstances.<sup>1</sup>

61. By its acts and omissions, BCSD was deliberately indifferent to what Plaintiff endured and created and/or subjected Plaintiff to a hostile educational environment in violation of Title

IX in at least the following ways:

- a. Failing to timely respond to the sexual assault(s) of Plaintiff by students of BCSD;
- b. Failing to adequately investigate the sexual assault(s) of Plaintiff by students of BCSD;
- c. Failing to take adequately address the student(s) of BCSD who sexually assaulted Plaintiff;
- d. Failing to timely respond to the bullying, harassment, sexual harassment, and physical assaults of Plaintiff at school;
- e. Failing to adequately investigate the bullying, harassment, sexual harassment, and physical assaults of Plaintiff at school;
- f. Failing to take adequately address the student(s) who bullied, harassed, sexually harassed, and physically assaulted Plaintiff at school.
- g. Failing to not offer counseling or therapy to Plaintiff after learning of the sexual assault(s) and bullying, harassment, sexual harassment, and physical assaults that stemmed from the sexual assaults;
- h. Failing to protect Plaintiff from ongoing bullying, harassment, sexual harassment, and physical assaults at school;
- i. Telling Plaintiff not to report Male 3 to police because he would lose his scholarship;

- j. Delaying and temporarily denying Plaintiff's school transfer application without proper reason despite the ongoing torment she was enduring at Bluffton High School;
  - k. And in such other ways as will be shown by the evidence adduced in discovery and at trial.
62. Plaintiff suffered damages, including interference with her educational opportunities, as a direct and proximate result of BCSD's violations of her rights under Title IX.

**SECOND CAUSE OF ACTION: NEGLIGENCE/GROSS NEGLIGENCE**

63. The allegations above and below are incorporated by reference into this cause of action to the extent they are not inconsistent with the following.
64. The School District owed a duty to Plaintiff to protect her from the bullying, harassment, sexual harassment, and physical assaults described above while she was at school.
65. The School District owed a duty to Plaintiff to properly and reasonably respond to the bullying, harassment, sexual harassment, and physical assaults described above.
66. The School District owed a duty to Plaintiff to respond to the bullying, harassment, sexual harassment, and physical assaults described above in a way that would not cause further emotional, psychological, or physical harm to Plaintiff.
67. The School District was negligent, grossly negligent, willful, or wanton in at least the following ways:
- a. Failing to enact rules, policies, or procedures regarding bullying, harassment, sexual harassment, and physical assaults'
  - b. Failing to follow its own rules, policies, or procedures regarding bullying, harassment, sexual harassment, and physical assaults;



- c. Failing to train its employees on its own rules, policies, or procedures regarding bullying, harassment, sexual harassment, and physical assaults;
- d. Failing to adequately investigate the sexual assault(s) of Plaintiff by students of BCSD;
- e. Failing to take adequately address the student(s) of BCSD who sexually assaulted Plaintiff;
- f. Failing to timely respond to the bullying, harassment, sexual harassment, and physical assaults of Plaintiff at school;
- g. Failing to adequately investigate the bullying, harassment, sexual harassment, and physical assaults of Plaintiff at school;
- h. Failing to take adequately address the student(s) who bullied, harassed, sexually harassed, and physically assaulted Plaintiff at school.
- i. Failing to not offer counseling or therapy to Plaintiff after learning of the sexual assault(s) and bullying, harassment, sexual harassment, and physical assaults that stemmed from the sexual assaults;
- j. Failing to protect Plaintiff from ongoing bullying, harassment, sexual harassment, and physical assaults at school;
- k. Telling Plaintiff not to report Male 3 to police because he would lose his scholarship;
- l. Denying Plaintiff's school transfer applications despite the ongoing torment she was enduring at Bluffton High School;
- m. And in such other ways as will be shown by the evidence adduced in discovery and at trial.

68. As a direct and proximate result of the above-referenced acts of the School District, Plaintiff required mental, emotional, and psychological treatment, suffered and continues to suffer lasting mental and emotional harm that has caused, and in the future will cause, one or more of the following damages:

- a. Physical pain and suffering;
- b. Mental anguish;
- c. Emotional distress;
- d. Impairment of health and bodily efficiency;
- e. Loss of sleep;
- f. Inability to concentrate;
- g. Lost educational opportunities
- h. Substantial expense for medical, psychological, and mental therapy services;
- i. Future mental health care;
- j. And any and all other damages provable at the trial of this case.

WHEREFORE, Plaintiff prays for a judgment against Defendant for actual damages, punitive damages, attorneys' fees, costs of this action, and such other and further relief as the court and jury shall deem just and proper.

The Law Offices of Joshua E. Slavin, LLC

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