

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JANE DOE n/k/a M.E.,

Plaintiff,

-against-

EDGEWOOD INDEPENDENT SCHOOL
DISTRICT; EDGEWOOD INDEPENDENT
SCHOOL DISTRICT POLICE
DEPARTMENT; MEMORIAL HIGH
SCHOOL; MARCUS REVILLA and
MANUEL HERNANDEZ,

Defendants.

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

COMPLAINT FOR DAMAGES

1. This is an action for damages on behalf of a citizen of the United States, who is now an adult. Because of the nature of her allegations, and her legitimate need for and right of privacy, Plaintiff files this complaint without appearance of her actual identity in the caption. Following the filing and service of this complaint, Plaintiff will file a motion under Local Rule CV-5.2 (a)-(e) seeking leave to file under seal an Amended Complaint containing her true identity.

2. This action arises from a long course of sexual harassment and sexual abuse suffered by Plaintiff while, as a minor child, she was enrolled in schools operated by Defendant Edgewood Independent School District. Plaintiff seeks damages and other relief pursuant to 42

U.S.C § 1983, and Title IX of the Education Amendments of 1971, 20 U.S.C.S. §§ 1681-1688 (“Title IX”).

I. PARTIES

3. Jane Doe n/k/a M.E., is the above-captioned Plaintiff. She is currently less than twenty-years-old, and her action is timely pursuant to the applicable Texas Statute of Limitations.

4. Defendant Edgewood Independent School District (“Edgewood”) is an entity organized under the law of Texas, operating several public schools within its designated geographical district in Bexar County, Texas, including but not limited to Memorial High School. Edgewood at all times material hereto, was responsible for the promulgation, implementation and maintenance of policies regarding student, faculty, and administrative procedures, including procedures relating to the prevention and reporting of student abuse.

5. Defendant Edgewood Independent School District Police Department (“EISD Police Department”) is an entity organized under the law of Texas, operating at all public schools within the purview of the District, including but not limited to Memorial High School. The EISD Police Department at all times material hereto, was responsible for the promulgation, implementation and maintenance of policies regarding student, faculty and administrative procedures, including procedures relating to the prevention and reporting of student abuse.

6. Defendant Memorial High School is an entity organized under the law of Texas, operating under the direction of the Edgewood Independent School District. Defendant Memorial at all times material hereto, was responsible for the promulgation, implementation and maintenance of policies regarding student, faculty and administrative procedures, including procedures relating to the prevention and reporting of student abuse.

7. Defendant Marcus Revilla (“Revilla”), had been employed as a chemistry teacher within the District, specifically Memorial High School. Revilla was Plaintiff’s chemistry teacher, beginning when plaintiff was fifteen-years-old.

8. Defendant Manuel Hernandez (“Hernandez”) had been employed by the District as a police officer, specifically assigned to Memorial High School. Hernandez was the police officer assigned to protect plaintiff and all the students at Memorial High School, beginning when plaintiff was fourteen-years-old.

II. JURISDICTION

9. Jurisdiction is vested in this Court due to the federal questions presented by Plaintiff’s federal statutory claims. *See* 28 U.S.C. § 1331. The court has supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. § 1367.

10. At all times material hereto, all defendants acted pursuant to or under color of state law as the terms are defined pursuant to 42 U.S.C. §1983.

11. At all times material hereto, defendants Edgewood, EISD Police Department, and Memorial received federal funds for the provision of public educational services and programs within the Edgewood Independent School District, including but not limited to services to students with “special” educational needs.

12. This suit is timely because Defendants Memorial, Edgewood, and EISD Police Department acting as a governmental unit, had actual knowledge of the subject sexual assault within the six-month period required to file a notice of claim. *See* TEX. CIV. PRAC. & REM. CODE ANN. §101.101(c) (West 2016).

III. VENUE

13. Venue lies properly in this judicial district, as all defendants are located or resided in the Western District of Texas and because the acts and failures to act giving rise to the complaint occurred in the Western District of Texas.

IV. MATERIAL FACTS

14. In or around August 2012, when Plaintiff was thirteen-years-old, she enrolled as a freshman student at Defendant Memorial High School, a public high school located in San Antonio, Texas, and operated by Defendant Edgewood Independent School District.

15. Immediately upon minor Plaintiff's enrollment, Defendant Manuel Hernandez, acting under color of his professional capacity as a Police Officer with the EISD Police Department stationed at Memorial, commenced a pattern of sexual harassment of minor Plaintiff in which Hernandez would detain minor Plaintiff in his office, tell her of his sexual feelings for her, tell her that he was using the school's security cameras to watch her on a daily basis, and improperly touch and/or grope her.

16. Beginning in or around August 2013, when Plaintiff was fourteen-years-old and starting her sophomore year at Memorial, Defendant Marcus Revilla, acting under color of his professional capacity as the chemistry teacher assigned to instruct minor Plaintiff for that academic year, initiated a course of improper conduct with minor Plaintiff that included sexual assault, and/or sexual abuse, and/or groping, and/or touching, and/or sodomy, and/or oral sex, and/or sexual intercourse, and/or sexual molestation, and/or pornographic photographing and/or recording of sex acts of or upon minor Plaintiff.

17. Defendant Revilla's improper relationship with minor Plaintiff continued on a consistent basis for approximately nine months, until his arrest in April 2014. Over that period

of time, he regularly engaged in improper conduct with minor Plaintiff that included sexual assault, and/or sexual abuse, and/or groping, and/or touching, and/or sodomy, and/or oral sex, and/or sexual intercourse, and/or sexual molestation, and/or pornographic photographing and/or recording of sex acts of or upon minor Plaintiff on at least 100 separate and distinct occasions.

18. From August 2013 to April 2014, a majority of Revilla's improper conduct with minor Plaintiff that included sexual assault, and/or sexual abuse, and/or groping, and/or touching, and/or sodomy, and/or oral sex, and/or sexual intercourse, and/or sexual molestation, and/or pornographic photographing and/or recording of sex acts of or upon minor Plaintiff occurred on or within the premises of Defendant Edgewood Independent School District, and specifically on or within the premises of Defendant Memorial High School.

19. In or around December 2013 and/or January 2014 and/or February 2014, Defendant Manuel Hernandez discovered Defendant Marcus Revilla's improper sexual conduct with respect to the minor Plaintiff and summoned minor Plaintiff to his office to inform her of his discovery. Defendant Hernandez made verbal threats toward minor Plaintiff, stating the he would start legal trouble for minor Plaintiff over her "relationship" with Defendant Revilla unless minor Plaintiff submitted to Hernandez's sexual advances toward Plaintiff as well. On at least two separate occasions, Defendant Hernandez compelled minor Plaintiff to submit to sexual assault, and/or sexual abuse, and/or groping, and/or touching, and/or sodomy, and/or oral sex, and/or sexual intercourse, and/or sexual molestation. These acts all occurred in Defendant Hernandez's office located on the grounds of Defendant Memorial High School.

20. Upon information and belief, in or around December 2013 through February 2014, Defendant Hernandez and/or Defendant Revilla would issue "hall passes" to minor Plaintiff to excuse her from class for the purposes of furthering their sexual assault, and/or sexual

abuse, and/or groping, and/or touching, and/or sodomy, and/or oral sex, and/or sexual intercourse, and/or sexual molestation.

21. In or around December 2013 or January 2014, minor Plaintiff became pregnant, and DNA testing subsequently determined Defendant Revilla to be the child's father.

22. Between September 2013 and April 2014, multiple teachers and/or administrators employed at Defendant Memorial High School and/or by Defendant Edgewood Independent School District became aware of Defendant Revilla's conduct with regard to minor Plaintiff and, ultimately, that minor Plaintiff had become pregnant with his child.

23. Despite their statuses as mandatory reporters of child abuse, none of the educators or administrators with knowledge of Revilla's conduct fulfilled his or her duty to report the conduct to the Texas Department of Child Protection Services, the Texas Education Agency, or any law enforcement agency, in violation of the Texas Child Protection Statutes. *See generally*, TEX. FAM. CODE ANN. §§ 261-64 (West 2016).

24. Upon information and belief, rumors regarding Revilla's conduct toward minor Plaintiff circulated amongst both students and staff at Memorial High School for the duration of the time period in which Revilla engaged in sexual assault, and/or sexual abuse, and/or groping, and/or touching, and/or sodomy, and/or oral sex, and/or sexual intercourse, and/or sexual molestation, and/or pornographic photographing and/or recording of sex acts of or upon minor Plaintiff.

25. Upon information and belief, Principal of Memorial High School, Michael Rodriguez ("Principle Rodriguez") was notified in writing by a Memorial High School teacher that he/she witnessed Defendant Revilla and minor Plaintiff alone together on a "date" outside

school grounds. No action was taken by Principle Rodriguez or any school official to investigate or report the allegation as required under state law.

26. Upon information and belief, a teacher informed Principle Rodriguez that Defendant Revilla was sexually harassing her and did not believe that Defendant Revilla's conduct was not becoming of a teacher. No action was taken by Principle Rodriguez or any Edgewood employee or official to investigate or report the allegation.

27. In or around April 2014, then Principal Rodriguez, summoned minor Plaintiff to his office to discuss Revilla's conduct. During that meeting, Principal Rodriguez stated to minor Plaintiff that he had been aware of the rumors regarding Revilla's sexual assault, and/or sexual abuse, and/or groping, and/or touching, and/or sodomy, and/or oral sex, and/or sexual intercourse, and/or sexual molestation, and/or pornographic photographing and/or recording of sex acts of or upon minor Plaintiff since the beginning of the school year, but that he had chosen to ignore them up to that point in time.

28. Upon information and belief, at all times relevant, Principle Rodriguez had his own access to Memorial High School's security system, including but not limited to, video surveillance cameras. Principal Rodriguez would often monitor the video cameras to enforce conduct reviews on teachers. Teachers witnessed other Vice Principals and Assistant Principals viewing the video footage inside classrooms and in common areas of the campus.

29. Upon information and belief, the ex-fiancé of Defendant Revilla notified Principal Rodriguez through electronic mail that Defendant Revilla was acting inappropriately and having sexual relations with minor Plaintiff and suggested an investigation or reprimand for his unprofessional actions.

30. Upon information and belief, Revilla's conduct was never reported to law enforcement authorities by any Edgewood employee or official. It was only brought to light and investigated beginning in or around March 2014, after Revilla's car was stolen and the San Antonio Police Department ("SAPD") recovered Revilla's car and found the minor Plaintiff's school identification card and her school-issued computer tablet in Revilla's car.

31. Upon information and belief, Principal Rodriguez shared his knowledge regarding Revilla's conduct with then Superintendent of Edgewood Independent School District Jose Cervantes.

32. Upon information and belief, Principal Rodriguez and/or Superintendent Cervantes shared their knowledge regarding Revilla's conduct with Edgewood Board of Trustees President Joseph Guerra, Vice President Tina Morales, Secretary Johnny Perez, and Trustees Sonia Elizondo, Mary Lou Mendoza, John Morales, and Velma Pena.

33. Upon information and belief, Principal Rodriguez, Superintendent Cervantes, and all members of the Edgewood Board of Trustees subsequently resigned from their positions with Edgewood ISD after Revilla's and Hernandez's conduct was exposed in the media subsequent to their arrests in 2014.

34. Subsequently, in or about April 2014, the SAPD and Texas Rangers questioned Revilla about his conduct toward minor Plaintiff. On information and belief, Revilla admitted his sexual assault, and/or sexual abuse, and/or groping, and/or touching, and/or sodomy, and/or oral sex, and/or sexual intercourse, and/or sexual molestation of or upon minor Plaintiff, and also disclosed Hernandez's similar conduct toward minor Plaintiff. The same day, Revilla resigned from his position at Memorial High School.

35. The following day, SAPD and Texas Rangers obtained search warrants, and executed them upon Revilla's home and school-issued laptop computer. The search resulted in the discovery of numerous surreptitiously-taken videos and photographs of Plaintiff and other females. Most of the photographs and videos were of the Plaintiff performing sex acts on Revilla or Revilla performing sex acts on Plaintiff.

36. In or around April 2014, Revilla was arrested and charged with multiple state and federal crimes, including Aggravated Sexual Assault of a Child as well as Production and Possession of Child Pornography.

37. In or around April 2014, Hernandez was also arrested on the charge of Aggravated Sexual Assault of a Child. Hernandez was indicted and is still awaiting trial in Judicial District Court of Bexar County. The Plaintiff was the victim of his criminal act.

38. On or about June 27, 2014, Revilla pled guilty to the State charge of Aggravated Sexual Assault of a Child and was sentenced to thirteen (13) years in state prison. The Plaintiff was the victim of this criminal act.

39. On September 22, 2014, Revilla pled guilty to the Federal charge of Production and Possession of child Pornography and was sentenced to more than seventeen (17) years in federal prison. The Plaintiff was the victim of this criminal act.

40. Upon information and belief, at all times relevant to this litigation, sexual harassment and other illegal conduct, including the sale of illicit drugs and firearms, were rampant at Memorial High School and tolerated generally by the staff. On or around the same time of the sexual abuse of the Plaintiff in this action, the Edgewood Independent School District had multiple other instances of sexual abuse against student victims, establishing a custom,

pattern, and practice of reckless disregard for the safety of the children in the Edgewood Independent School District and Memorial High School.

V. CAUSES OF ACTION

COUNT I

TITLE IX DISCRIMINATION (20 U.S.C. § 1681, ET SEQ.)

Against Defendants Memorial, Edgewood, and EISD Police Department

41. Plaintiff repeats and realleges by reference all preceding paragraphs of this complaint into this paragraph of Count I which arises under Title IX.

42. That Title IX provides that “No person ... shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance” 20 U.S.C. § 1681(a).

43. At all relevant times, including between 2013 to 2014, Defendant Memorial, Defendant EISD Police Department and/or Defendant Edgewood were educational institutions that provided public school education and received federal financial assistance.

44. At all relevant times, including between 2013 to 2014, defendants have possessed actual notice and/or actual notice of substantial risk that they could be liable under Title IX for teacher/member/employee/agent/servant/volunteer-on-student sexual harassment, sexual grooming, sexual discrimination, and/or sexual abuse.

45. At all relevant times, including between 2013 to 2014, the School Board, Principle Rodriguez, and/or other teachers/staff possessed actual notice and/or actual notice of substantial risk that defendants Memorial, EISD Police Department, and Edgewood could be liable under Title IX for teacher/member/employee/agent/servant/volunteer-on-student sexual harassment, sexual grooming, sexual discrimination, and/or sexual abuse.

46. Defendants, the School Board, Principle Rodriguez, and/or other teachers/staff possessed decision-making authority concerning the procedures and conduct of investigations into such allegations including the taking of and determining the course of action based upon reports of sexual abuse, sexual harassment, and/or sexual grooming.

47. As alleged above, Defendants intentionally disregarded the rights and safety of female students, including but not limited to Plaintiff, as well as their complaints related thereto.

48. Based on prior reports of abuse and continuing through the plaintiff's abuse, the defendants possessed actual knowledge of defendants Revilla's and Hernandez's sexual harassment, sexual discrimination, and/or sexual abuse of minor students.

49. Upon information and belief, defendants had actual notice under the circumstances of defendants, Revilla's and Hernandez's sexual harassment, sexual grooming and/or sexual abuse of minor students and failed to take appropriate corrective action, thereby acting with deliberate indifference to the rights and safety in one or more of the following ways:

- a. failing to report teacher/member/employee/agent/servant/ volunteer-on-student sexual harassment, sexual grooming and/or/or sexual abuse to appropriate authorities;
- b. failed to cure or even attempt to cure obvious and known risks to minor students at Memorial High School placed under defendants Revilla's and Hernandez's supervision and authority;
- c. failing to communicate any precautions, directives or educational materials that might be utilized between parent and child to identify whether or not inappropriate conduct that occurred between any student/child and another adult,

whether generally or specifically in relation to defendants Revilla and/or Hernandez;

- d. allowing defendants Revilla and/or Hernandez to have unsupervised conduct with minor students at Memorial High School, including plaintiff, without conducting, documenting, and/or concluding an investigation into the allegations and specific facts brought to light prior to that time;
- e. allowing defendants Revilla and/or Hernandez to have access to various rooms and/or areas at Memorial High School where prior abuse allegedly occurred while having absolutely no plan for supervision or surveillance of defendants Revilla and/or Hernandez, and when defendants Revilla and/or Hernandez continued without complaint or observation by the school to use various rooms and/or areas to sexual abuse plaintiff;
- f. failure to train Edgewood and EISD Police Department personnel regarding the proper investigation of child abuse allegations;
- g. systematic failure to conduct, or to insure that proper and thorough investigations of child abuse allegations, including but not limited to those known by Edgewood and EISD Police Department staff, were conducted;
- h. systematic failure to report, or to insure that credible allegations of child abuse, including but not limited to those known by staff, were reported to the proper agencies and authorities;
- i. systematic failure to ensure Edgewood's and EISD Police Department's compliance with Texas Child Protective Services Law;

- j. failure to supervise or monitor the interactions of teachers with students in school, when the Plaintiff and teacher were not in their normal class setting, despite the fact that Defendants knew or should have readily known that Revilla was engaged in a longstanding pattern of abusing or harassing the Plaintiff;
- k. systematic failure to protect Plaintiff from sexual abuse by Revilla and/or other Edgewood, EISD Police Department, and/or Memorial personnel; and
- l. these acts, policies, customs and practices were carried out maintained in arbitrary, reckless and deliberate indifference to the rights and well-being of Plaintiff.

50. The defendants acted with deliberate indifference to the actual knowledge possessed by defendants of teacher/member/employee/agent/servant/volunteer-on-student sexual harassment, sexual grooming and/or sexual abuse caused plaintiff to suffer unwarranted, unwelcome and uninvited sexual abuse of a gross and predatory nature between approximately 2013 and 2014.

51. Defendants were deliberately indifferent to the safety of minor students at Memorial High School, including but not limited to the plaintiff.

52. Title IX, 20 U.S.C. § 1681, et seq., requires the defendants to provide educational opportunity on an equal basis to all students regardless of their gender.

53. Defendants failed to comply with Title IX in that despite prior reports of abuse, the defendants continued to allow defendants Revilla and/or Hernandez unsupervised access to minor students and access to certain rooms and areas that were inaccessible to others, providing defendants Revilla and/or Hernandez with privacy to carry out the sexual abuse of minor students, including plaintiff.

54. Defendants failed to comply with Title IX in that the defendants failed to ensure that the education provided to minor students would be on an equal basis compared to the education provided by defendants to other minor students.

55. The policy or practice of receiving multiple complaints of harassment and/or abuse concerning defendants Revilla and/or Hernandez's conduct with minor students and then continuing to place defendants Revilla and/or Hernandez in various supervisory positions of authority with unsupervised access to additional students at Memorial High School without any investigation into whether defendants Revilla and/or Hernandez was harassing and abusive to students, including but not limited to plaintiff and violated plaintiff's right to equal public education without discrimination on the basis of sex and the fact(s) that sex indeed became a condition of receiving her education.

56. 20 U.S.C. § 1981 affords plaintiff a civil cause of action for damages and for appropriate injunctive relief against the defendants. 42 U.S.C. § 1988 identifies damages, court costs, litigations expenses and attorney's fees as within the remedies available in an action brought pursuant to 10 U.S.C. § 1981.

57. As a direct and proximate result of the conduct of defendants as described herein, Plaintiff Jane Doe has sustained severe and permanent bodily injury, sickness and/or disease, including but not limited to sleep disturbance, nightmares, depression, post traumatic stress disorder-like symptoms, fatigue, social anxiety, anger, panic attacks, and as a result thereof she has and will continue to experience:

- a. physical and mental pain and suffering;
- b. emotional distress;
- c. loss of a normal life;

- d. medical and counseling expenses; and/or
- e. lost wages.

58. **WHEREFORE**, the plaintiff, Jane Doe respectfully requests that this Honorable Court enter judgment in her favor and against the defendants for compensatory damages, for court costs, for the expenses of this litigation and for her attorney's fees as well as any other relief deemed necessary and just by this court.

COUNT II
SUBSTANTIVE DUE PROCESS VIOLATIONS (42 U.S.C. § 1983)
Against All Defendants

59. Plaintiff hereby repeats and realleges, by reference, all preceding paragraphs of this Complaint into this paragraph of Count II.

60. At all times material hereto, all defendants acted pursuant to or under color of state law as the terms are defined pursuant to 42 U.S.C. §1983.

61. The defendants turned a blind eye to complaints of sexual abuse and/or misconduct, ignored complaints, failed to respond to allegations of sexual misconduct, and acted with deliberate indifference to the rights of minor students, including plaintiff.

62. Plaintiff was deprived of her constitutional liberty interest under the Fourteenth Amendment by defendants' creation and promotion of policies, customs, or practices that fostered a climate to flourish where minor students, including plaintiff, were left vulnerable to and actually were subject to sexual abuse by the defendants Revilla and Hernandez, agents, servants and/or employees of the defendant Memorial and/or defendant Edgewood.

63. Plaintiff was deprived of her constitutional liberty interest under the Fourteenth Amendment by defendants' creation and promotion of policies, customs, or practices that fostered a climate to flourish where minor students, including plaintiff, were left vulnerable to

and actually were subject to sexual abuse by the defendants Revilla and/or Hernandez as an agents, servants and/or employees of the defendant Memorial and/or defendant Edgewood.

64. Through their action and/or inaction stemming from complaints and allegations of sexual misconduct and abuse, defendants' conduct was arbitrary and offensive, shocking the conscience and interfering with minor students', including plaintiff's rights and liberties granted by the Constitution and protected by law.

65. 42 U.S.C. § 1983 affords plaintiff a civil cause of action for damages and for appropriate injunctive relief against defendants. 42 U.S.C. § 1988 identifies damages, court costs, litigation expenses and attorney's fees as within the remedies available in an action brought pursuant to 42 U.S.C. § 1983.

66. As a direct and proximate result of the conduct of the defendants as described herein, plaintiff has sustained severe and permanent bodily injury, sickness and/or disease, including but not limited to sleep disturbance, nightmares, depression, post-traumatic stress disorder-like symptoms, fatigue, social anxiety, anger, panic attacks, and as a result thereof she has and will continue to experience:

- a. physical and mental pain and suffering;
- b. emotional distress;
- c. loss of a normal life;
- d. medical and counseling expenses; and/or
- e. lost wages.

67. The conduct of the defendants, as described above, constituted a violation of trust or confidence, showing complete indifference to or conscious disregard for the safety and wellbeing of plaintiff and other minor students.

68. WHEREFORE, the plaintiff, Jane Doe, respectfully requests that this Honorable Court enter judgment in her favor and against the defendants for compensatory damages, exemplary damages, for court costs, for the expenses of this litigation and for her attorney's fees as well as any other relief deemed necessary and just by this court.

COUNT III
EQUAL PROTECTION VIOLATIONS (42 U.S.C. § 1983)
Against All Defendants

69. Plaintiff hereby repeats and realleges, by reference, all preceding paragraphs of this Complaint into this paragraph of Count III.

70. At all times material hereto, all defendants acted pursuant to or under color of state law as the terms are defined pursuant to 42 U.S.C. §1983.

71. The defendants were uniquely aware that defendants Revilla and/or Hernandez had used defendants' property to perpetrate acts of sexual abuse and/or misconduct against minor students which defendants Revilla and/or Hernandez had access to by and through their employment with Memorial, and/or Edgewood, and/or EISD Police Department..

72. The defendants turned a blind eye to complaints of sexual abuse and/or misconduct, ignored complaints, failed to respond to allegations of sexual misconduct, and/or acted with deliberate indifference to the rights of minor students, including plaintiff, and with the intent to discriminate against minor students, including plaintiff, on the basis of sex.

73. Plaintiff was deprived of her constitutional liberty interest under the Fourteenth Amendment by defendants' creation and promotion of policies, customs, or practices that allowed a climate to flourish where minor students, including plaintiff, were left vulnerable to and actually were subject to sexual abuse by defendants Revilla and/or Hernandez by and through their employment with Memorial, and/or Edgewood, and/or EISD Police Department.

74. 42 U.S.C. § 1983 affords plaintiff a civil cause of action for damages and for appropriate injunctive relief against defendants. 42 U.S.C. § 1988 identifies damages, court costs, litigation expenses and attorney's fees as within the remedies available in an action brought pursuant to 42 U.S.C. § 1983.

75. As a direct and proximate result of the conduct of the defendants as described herein, plaintiff has sustained severe and permanent bodily injury, sickness and/or disease, including but not limited to sleep disturbance, nightmares, depression, post-traumatic stress disorder-like symptoms, fatigue, social anxiety, anger, panic attacks, and as a result thereof she has and will continue to experience:

- a. physical and mental pain and suffering;
- b. emotional distress;
- c. loss of a normal life;
- d. medical and counseling expenses; and/or
- e. lost wages.

76. The conduct of the defendants, as described above, constituted a violation of trust or confidence, showing complete indifference to and/or conscious disregard for the safety and wellbeing of plaintiff and other minor students.

77. WHEREFORE, the plaintiff, Jane Doe, respectfully requests that this Honorable Court enter judgment in her favor and against the defendants for compensatory damages, exemplary damages, for court costs, for the expenses of this litigation and for her attorney's fees as well as any other relief deemed necessary and just by this court.

COUNT IV
DENIAL OF CONSTITUTIONAL LIBERTY INTEREST (42 U.S.C. § 1983)
Against All Defendants

78. Plaintiff hereby repeats and realleges, by reference, all preceding paragraphs of this Complaint into this paragraph of Count IV.

79. At all times material hereto, all defendants acted pursuant to or under color of state law as the terms are defined pursuant to 42 U.S.C. §1983.

80. The defendants established, through both action and inaction, a widespread policy, practice or custom allowing the sexual abuse to continue to occur without corrective action. Such policy, practice and/or custom(s) includes, but is not limited to:

- a. failing to report teacher/member/employee/agent/servant/volunteer-on student sexual harassment, sexual grooming and sexual abuse under Texas Child Protective Services Law. *See generally*, TEX. FAM. CODE ANN. §§ 261, 264 (West 2016);
- b. failing to cure or even attempt to cure obvious and known risks to minor students at Memorial High School placed under defendants Revilla and/or Hernandez's supervision and authority;
- c. failing to communicate any precautions, directives or educational materials that might be utilized between parent and child to identify whether or not inappropriate conduct that occurred between any student/child and another adult, whether generally or specifically in relation to defendants Revilla and/or Hernandez.
- d. continuing to allow defendants Revilla and/or Hernandez to have unsupervised conduct with minor students in 2013 through 2014 at Memorial High School,

including plaintiff, without conducting, documenting and concluding an investigation into the allegations and specific facts brought to light prior to that time; and/or

- e. continuing to allow defendants Revilla and/or Hernandez to have access to various rooms and areas at Memorial High School while having absolutely not plan for supervision or surveillance of defendants Revilla and/or Hernandez and when defendants Revilla and/or Hernandez continued without complaint or observation by the school and/or school district to use various rooms and areas to sexually abuse plaintiff;
- f. failure to train Edgewood and EISD Police Department personnel regarding the proper investigation of child abuse allegations;
- g. systematic failure to conduct, or to insure that proper and thorough investigations of child abuse allegations, including but not limited to those known by Edgewood staff, were conducted;
- h. systematic failure to report, or to insure that credible allegations of child abuse, including but not limited to those known by staff, were reported to the proper agencies and authorities;
- i. systematic failure to ensure Edgewood and EISD Police Department compliance with Texas Child Protective Services Law;
- j. failure to supervise or monitor the interactions of teachers with students in school, when the Plaintiff and teacher were not in their normal class setting, despite the fact that Defendants knew or should have readily known that Revilla was engaged in a longstanding pattern of abusing or harassing the Plaintiff;

- k. systematic failure to protect Plaintiff from sexual abuse by Revilla and/or other Edgewood, EISD Police Department, and/or Memorial personnel; and
- l. these acts, policies, customs and practices were carried out maintained in arbitrary, reckless and deliberate indifference to the rights and well-being of Plaintiff.

81. The defendants established such policy, practice or custom which fostered a climate which facilitated sexual abuse of minor students by defendants Revilla and/or Hernandez and evidenced a reckless disregard and/or a deliberate indifference to the consequence that such action or inaction may, and did, have on minor students within Memorial High School and/or the Edgewood Independent School District, including plaintiff.

82. The defendants had final policymaking authority and exercised that granted authority in making decisions that perpetuated and/or allowed the sexual abuse of plaintiff by defendants Revilla and/or Hernandez and caused plaintiff's constitutional harm to occur and/or continue.

83. Through their action and/or inaction stemming from complaints and allegations of sexual misconduct and abuse, the defendants' conduct was arbitrary and offensive, shocking the conscience and interfering with minor students', including plaintiff's, rights and liberties granted by the Constitution and protected by law.

84. Plaintiff was deprived of her constitutional liberty interest under the Fourteenth Amendment by defendants' creation and promotion of policies, customs, or practices that allowed a climate to flourish where minor students, including plaintiff, were left vulnerable to and actually were subject to sexual abuse by defendants Revilla and/or Hernandez, by and

through their employment with defendants Memorial, and/or EISD Police Department, and/or Edgewood.

85. 42 U.S.C. § 1983 affords plaintiff a civil cause of action for damages and for appropriate injunctive relief against defendants. 42 U.S.C. § 1988 identifies damages, court costs, litigation expenses and attorney's fees as within the remedies available in an action brought pursuant to 42 U.S.C. § 1983.

86. As a direct and proximate result of the conduct of the defendants as described herein, plaintiff has sustained severe and permanent bodily injury, sickness and/or disease, including but not limited to sleep disturbance, nightmares, depression, post-traumatic stress disorder-like symptoms, fatigue, social anxiety, anger, panic attacks, and as a result thereof he has and will continue to experience:

- a. physical and mental pain and suffering;
- b. emotional distress;
- c. loss of a normal life;
- d. medical and counseling expenses; and/or
- e. lost wages.

87. The conduct of the defendants, as described above, constituted a violation of trust or confidence, showing complete indifference to and/or conscious disregard for the safety and wellbeing of plaintiff and other minor students.

88. **WHEREFORE**, the plaintiff, Jane Doe, respectfully requests that this Honorable Court enter judgment in her favor and against the defendants for compensatory damages, exemplary damages, for court costs, for the expenses of this litigation and for her attorney's fees as well as any other relief deemed necessary and just by this court.

VI. PUNITIVE DAMAGES ALLEGATION

89. The intentional conduct of Revilla and/or Hernandez alleged herein was outrageous and wanton, and committed in total reckless disregard for Plaintiff's well-being, and the laws intended to protect her and persons similarly situated, including the criminal laws of Texas proscribing aggravated sexual assault of a child, improper relationship between a teacher and student, production of child pornography, corruption of minors, and harassment, thereby warranting the imposition of punitive damages.

VII. JURY DEMAND

90. Plaintiff demands a jury determination of all so triable.


VIII. PRAYER FOR RELIEF

91. Wherefore, the above-captioned Plaintiff respectfully requests this Honorable Court to enter judgment in her favor, and against the above-referenced Defendants, individually, jointly and severally, and the award the following relief:

- a) an award of general and compensatory damages;
- b) an award of punitive damages against Revilla, Hernandez and Edgewood;
- c) an award of attorney fees and cost pursuant to 42 U.S.C. §1988 and Title IX; and
- d) any such other relief as the Court deems just and equitable.

Dated: San Antonio, Texas
December 5, 2016

Respectfully submitted,



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