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November 1, 2022
Mr. Daniel Linfood
Superintendent
Davis School Board

Ms. Tracy Robbins
Elementary School Director
Foxboro Elementary

Foxboro Elementary School

Davis School District
45 East State Street
P.O. Box 588
Farmington UT 84025
801 402-5261

RE: **NOTICE OF CLAIM ON BEHALF OF
ESTATE OF ISABELLA TICHENOR
And Ms. BRITTANY TICHENOR**

Dear Superintendent Linfood,

I represent Ms. Brittany Tichenor-Cox. She is Isabella, Addison, and Jaxon Tichenor's mother. Isabella, Addison, and Jaxon each attended Foxboro Elementary School, September of 2021 until the untimely passing of Isabella on November 6th, 2021. Foxboro is a public school located in the Davis School District.

FACTUAL BACKGROUND

1. The Davis School District (the District) receives both state and federal funds for programs for students with unique needs. These programs are intended to provide an opportunity for a fair, free, and appropriate public education (FAPE).
2. These programs are designed to assist learning disabled students, minorities students, those who may be living in poverty, homeless students, or children who have special needs regarding their ability to learn.
3. The District is also required to provide a safe and secure environment for all children. Without a safe and secure environment Article X of the Utah Constitution would be simply an aspiration with no clear path.
4. Isabella Tichenor was a fifth-grade student at Foxboro Elementary School, a school in the Davis School District, from August through November 6th, 2021.

5. On September 2, 2021, Izzy's mother, Brittany Tichenor-Cox, and stepfather Charles Cox, went in person to Foxboro Elementary to report incidents of bullying, abusive conduct, racism, ableism, and or sexism Izzy endured to Foxboro administration.
6. The following day, Brittany phoned the school at 8:22am to follow up, report additional incidents of bullying and to seek additional information about what was going on to understand how she could protect her children from continued incidents of bullying, abusive conduct and harassment. This time, she learned and reported to Foxboro, in person, incident(s) of Hoverboard Boy (HB) using the "N" word with these children.
7. In response to these allegations, Foxboro Principal, Chris Whitaker, invited the offender, HB to sit with her during breakfast. HB was not placed in in school detention, not made to stay after school, not instructed to apologize, and HB was not sanctioned in any meaningful way for his bullying and abusive behavior. No one was offered an explanation as to how this may deter future conduct by this young man.
8. Izzy was very aware of the breakfast. She reported the "sanction" to her parents. Through her sobs to her mother, it was clear she did not even hope for assistance from the school. She interpreted the breakfast as a reward for HB and not a punishment or deterrent. She asked her mother why when she gets in trouble, she doesn't get to have lunch with the Principal.
9. Though she likely could not have articulated as much, this recognition was devastating. Her principal did not punish other children when they hurt her or made her feel like an outsider.
10. As a result of this unchecked bullying and the school's overall "deliberate indifference" to minority students, Izzy failed nearly all her classes. At the time of her death, she could barely read or do math on a first-grade level.
11. On September 3rd, 2021, Brittany called the school at 2:18pm. She reported to the school her kids told her HB claimed to have a gun at school and intended to use it to cause harm. In the file the administrators following note question Brittany's report. It says, "neither of the children mentioned this to me or teachers" then "I checked with teachers." Foxboro took no immediate action as required under the law.
12. Foxboro administration searched the locker of HB the following day. No gun was found, and no further investigation was conducted.
13. Ms. Tichenor-Cox along with her husband, contacted Foxboro several times in September and October to voice their concerns.
14. Neither Foxboro nor Davis School District followed up with any suggestions of classes or programs they could attend to learn how to deal with this.
15. During the time the children were attending Foxboro Elementary school teachers and staff suspected the family was homeless.
16. When the children were picked up from school the family came in a van. When the door of the van opened, school staff observed items indicating they were living in their van.
17. At one point, Izzy tried to carry a spray can of Febreze to school with her. When her mother saw she was taking it Izzy told her it was because the kids were teasing her because she smelled bad.
18. Ms. Brittany Tichenor-Cox brought this to the school's attention and Izzy was provided a hygiene packet because they suspected she was homeless and not able to bathe regularly.
19. Izzy's mother and stepfather contacted the school several times in September and October of 2021. They reported bullying and abusive conduct of all three children but stressed the impact it was having on Izzy. The school said some of the right things but ultimately took no action.

20. The school repeatedly assured Ms. Tichenor-Cox Izzy was being taken care of. There are no notes in the school files regarding any effort to take care of Izzy.
21. After 10 weeks of bullying, abusive conduct and deliberate indifference by the school in handling the matter, on Tuesday, November 2nd, Isabella Tichenor tied an electrical cord to a closet rod, the other end to her neck, and simply leaned forward. She passed away on November 6th, 2022.

CLAIMS ASSERTED

1.

42 U.S.C. § 1983 and 42 U.S.C. § 1988(b)

22. Claimant brings this claim under 42 U.S.C. § 1983 and 42 U.S.C. § 1988(b). S 1983 states “Every person who, under color of any statute, ordinance regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.
23. Defendants acting under the state law, deprived Isabella Tichenor of her substantive due process rights as provided by the Fourteenth Amendment to the U.S. Constitution.
24. Defendants Davis School District, Foxboro Elementary, Davis School Board, Principal Chris Whitaker, Jane and John Does 1-10 each had a duty to protect Izzy and not place her in a position of danger she would have be in otherwise.
- 25.

2.

Violation of Article X § 1 Utah Constitution

26. Plaintiff asserts Davis Count School District is in violation of Article X Davis 1 of the Utah State Constitution. This provision guarantees a free and appropriate public education to all children.
27. Izzy did not receive an appropriate public education.
28. Foxboro placed Izzy in a main stream school setting she was not capable of understanding in the setting and with other children she was placed, and her grades indicate as much.
29. She failed subjects, projects, assignments, tests, and quizzes on a regular basis.
30. Her reading comprehension level was as low as a child much, much younger than her.
31. Her basic math skills consisted of her having the ability to count dots and single digit addition. She did not demonstrate any other proficiency with mathematics.
32. Defendants claim to have tested her for various mental health and learning disabilities.
33. They did not identify anything serious enough to warrant a different school, class, or additional services in spite of her poor academic and behavioral performance.
34. She was put in with a group of children in a resource program who receive basic academic instruction periodically. These children’s capabilities were far greater than hers and she felt sad and ashamed of her inability to thrive.
35. Davis School District failed to provide an appropriate public education to Izzy in violation of Article X section 1 of the Utah Constitution.

3.
United States Constitution
14th Amendment
Article 1 § 7 Utah Constitution

36. Davis School District violated the U.S. Constitution 14th Amendment guarantee of Due Process prior to any government action or inaction.
37. Article 1§7 of the Utah Constitution further guarantees the protection against “deprivation of life, liberty, or property, without due process of law.”
38. Izzy Tichenor’s right to a free, appropriate, public education was taken from her without Due Process of Law.
39. She was repeatedly subjected to “unjustified intrusions to her personal security.”
40. Davis School District denied her rights by failing to utilize programs and corresponding funding to improve Izzy’s personal security, mental health, and bodily integrity in school and at home.
41. They denied her right to an education by failing to diagnose her with a learning disability.
42. They denied her right to a public education by failing to stand up for her “bodily integrity” against the bullies thereby creating for Izzy, an environment where her assailants are rewarded for “unjustified intrusions on [her] personal security” while she continued to be isolated, frustrated by her disabilities and distinctions and most of all, alone in a school charged with protecting her and teaching her.

4.
Utah Code § 53G-9-7-3
Parent Education – Mental Health – Bullying -Safety

43. Davis School District violated Utah Code § 53G-9-7-3 Parent Education – Mental Health – Bullying -Safety
44. This requires school districts to annually hold a seminar for parents of students who have a concern regarding bullying, abusive conduct, harassment, sexism, and ableism of their child.
45. Davis School District does not hold or advertise these seminars.
46. Ms. Tichenor-Cox is unaware of how to address her child’s need for protection from bullies. She lacks the ability to protect them during the school day and reasonably relies upon the school to not only provide appropriate education, but to keep them safe and protected.
47. Davis, Foxboro Elementary, and the remaining defendants, denied Izzy a free and appropriate education without Due Process because they ignored Utah Code §53G-9-7-3

5.
Utah Code § 53G-9-602

48. Utah Code § 53G-9-602 prohibits bullying in schools.
49. Davis and Foxboro failed to enforce this law in Foxboro Elementary for Izzy.
50. By failing to enforce for Izzy they have denied her Due Process and a fair and appropriate education.
51. Izzy was not reasonably able to attend school in such a hostile environment with little to no understanding or back up.

52. Davis, Foxboro Elementary, and the remaining defendants, failed to provide the free and appropriate education without Due Process. In their failure to follow the law, Davis School District and Foxboro Elementary have effectively denied Izzy a free and appropriate public education since she cannot attend and concentrate without concerns of being harassed, teased, or otherwise bullied.

6.

Utah Code § 53G-9-604

53. Utah Code § 53G-9-604 requires schools to notify parents when (i) a student threatens to commit suicide (2) each time a student is involved in bullying, cyber bullying, hazing, abusive conduct, or retaliation.
54. Foxboro Elementary School nor Davis School District never notified Izzy's parents of situations or incidents.
55. Ms. Cox contacted the school to report each of the incidents involving her children. Neither an administrator, teacher, or employee contacted Ms. Cox about her children and their well being until she made them aware.
56. Ms. Cox, through counsel has requested all of Izzy's records. No documentation informing parents or providing assistance was turned over in violation of Utah Code § 53G-9-604.
57. By failing to notify Izzy's parents of what was happening to her, or by failing to document and provide evidence of documentation, Davis School District failed to provide Due Process for both Izzy and the rest of her family.
58. Davis, Foxboro Elementary, and the remaining defendants, failed to provide the free and appropriate education without Due Process. In their failure to follow the law, Davis School District and Foxboro Elementary have effectively denied Izzy a free and appropriate public education since she cannot attend and concentrate without concerns of being bullied, abused by student conduct, harassed, teased, or otherwise excluded from her peers.
- 59.

7.

Utah Code § 53G-8-205

60. Utah Code § 53G-8-205 Grounds for Suspension or Expulsion from Public School 1. A student may be suspended or expelled from a public school for **ANY** of the following reasons.

Any serious violation affecting another student or staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity.

61. Izzy was abused inside of the school building. On several occasions bullying, abusive behavior and harassment was reported by Izzy, her friends, and her parents.
62. The reports included physical violence, racial taunts, hygienic taunts, rude comments about clothing and hairstyles, use of the "N" word, isolation by the bullies from other students, and Foxboro's and the districts deliberate indifference to the reports of bullying, abusive behavior, sexism, racism, and ableism.
63. The only sanction meted out was an invitation for breakfast and taking one suspected student's hoverboard.
64. Utah Code § 53G-8-205 (2)(a) say A student **SHALL** be suspended or expelled from a public school for the following reasons.

- i. Any serious violation affecting another student or staff member, or any serious violation occurring in a school building, in or on school property, or in conjunction with any school activity.
 - ii. The actual or threatened use of a look-a-like weapon with intent to intimidate another person or to disrupt normal school activities
65. Izzy and her siblings reported HB threatened to possess a gun in school, and at least intimidated, his intent to use it.
66. The investigation the next day did not support the presence of a gun.
67. The investigation failed to make any finding of whether the threat was made.
68. If the threat was made, on school property this young man is required to be suspended.
69. If the bully is suspended Izzy realizes she can expect the administration to follow the rules and protect her.
70. HB was not suspended, expelled, placed in time out, or otherwise deterred from making more threats in the future.
71. Foxboro and Davis Counties decision to look the other way was devastating to Izzy and her sense of wellbeing.
72. Izzy was aware of the efforts her family was making on her behalf and could easily recognize their pleas were being systematically ignored.
73. Davis violated her rights by failing to enforce Utah Code § 53G-8-205.
74. This naturally resulted in Izzy feeling unsupported or unwelcome in her classroom.
75. Davis and Foxboro Elementary violate students' rights when they do not protect each of them from bullies, abusive behavior, sexism, racism, or ableism.
76. Schools should protect children from bullies by enforcing the rules.
77. Davis, Foxboro Elementary, and the remaining defendants, failed to provide the free and appropriate education without Due Process. In their failure to follow the law, Davis School District and Foxboro Elementary have effectively denied Izzy a free and appropriate public education since she cannot attend and concentrate without concerns of being bullied, abused, harassed, teased, or otherwise excluded from her peers.

8.

Utah Code § 78B-3-105 & 106

WRONGFUL DEATH

Based on Negligent/ Reckless/ Wanton

Hiring, Training, Retention and Supervision

As to Defendant Davis School District and Foxboro Elementary

78. Davis School District and Foxboro Elementary are liable to Brittany Tichenor-Cox because she is the undisputed natural mother Izzy Tichenor who died as a result of Davis School District inaction along with Foxboro Elementary School. Utah Code § 78B-3-105 defines "heir" to mean the following persons (3)(a) the decedents natural parents.
79. Utah Code § 78B-3-106(1) states.

- i. "When the death of a person is caused by the wrongful act or neglect of another, his or her heirs, personal representative for the benefit of heirs, may maintain an action for damages against the person causing the death,

or, if the person is employed by another person who is responsible for his conduct, the against the other person.”

80. Davis and Foxboro were responsible to protect and keep Izzy safe through the application of Constitutional Law, statutes, regulations, and polices.
81. Davis, Foxboro, and the other defendants were negligent as a result of their deliberate indifference regarding training, monitoring, and enforcement of Constitutional and Statutory requirements established to protect vulnerable children like Izzy.
82. Defendants failed to apply or enforce the various laws designed to protect children in vulnerable circumstances.
83. Defendants were deliberately indifferent to the bullying, harassment, abuse, racism, sexism, and ableism Izzy and her family repeatedly reported regarding her treatment while at Foxboro, Davis School District.
84. Defendants are deliberately indifferent to her failing grades.
85. Defendants are deliberately indifferent to read past a first grade or kindergarten level.
86. Defendants are deliberately indifferent to her inability to comprehend even the most basic of sentences.
87. Defendants are deliberately indifferent her inability to multiply numbers, divide numbers, add complex numbers, and to subtract numbers.
88. Defendants ignored what was most certainly pervasive and disturbing bullying, abusive conduct, harassment, racism, ableism, and sexism on the playground.
89. Defendants failed to document incidents of bullying, abuse, harassment, racism, sexism, ableism and other anti-social behavior.
90. Defendants failed to provide Izzy with appropriate evaluations of her abilities and limitations for her academic and social development.
91. Defendants ignored her as she failed to make any progress in school and or develop with students of similar age and ability.
92. Defendants ignored the indicators of homelessness and the corresponding challenges to fitting in with other kids and succeeding in school.
93. Defendants failed to offer the assistance available with state and federal grant money for homeless children.
94. Izzy felt bullied, abused, discriminated against, excluded, alone, and vulnerable as a result of the District's and Foxboro's failure to comply with State and Federal Regulations.
95. Izzy hung herself with an electrical cord after suffering the bullying and abuse she reported to her mother, who notified the school and District repeatedly. The bullying, abusive conduct, ableism, racism, sexism are systematically ignored by Davis and Foxboro Elementary.
96. Defendants are responsible for her death because they failed to fulfill their duty to protect and educate Izzy.

9.

Utah Administrative Rules

R277-328-2

97. UAR R277-328-2 defines Educational Equality as an acknowledgment all students are capable of learning.
98. UAR R277 requires the school district to provide equal opportunities based upon the needs of each individual student.

99. UAR R277 and requires resources including funding programs, policies, initiatives, and support recognizing each student's unique background and school context to **GUARANTEE** all students have access to high quality education.
100. Davis and Foxboro failed to provide Izzy with a "high quality education" by denying her access to the programs and opportunities required by law after accepting the applicable funding.
101. Davis and Foxboro's deliberate indifference to their responsibility under the law contributed to Izzy failing classes repeatedly.
102. Davis and Foxboro's deliberate indifference resulted in Izzy being denied access to programs within the school and district.
103. Upon receipt of the reports of bullying and abusive conduct, Davis and Foxboro investigated to protect their interests, reputation, and funding. It was not for the benefit of Izzy or any other child.
104. As a result of the investigation into the bullying and abuse reported by Izzy, her abuser, HB, was invited to breakfast. No other information regarding his sanction, if any, was provided.
105. Davis, Foxboro Elementary, and the remaining defendants, failed to provide the free and appropriate education without Due Process. In their failure to follow the law, Davis School District and Foxboro Elementary have effectively denied Izzy a free and appropriate public education since she cannot attend and concentrate without concerns of being bullied, abused, harassed, teased, or otherwise excluded from her peers and school.

10.

Utah Administrative Rules R277-217-3(1) and (2)

106. UAR R277-217-2 establishes the required conduct for educators. Educators must comply with all federal, state, and local laws, and educators must maintain a professional educator/student relationship by "treating a student with dignity and respect by promoting the health, safety and well-being of students; and maintaining appropriate verbal, emotional and social boundaries.
107. Educators are not allowed to exclude a student based on (a) race (b) color (d) sex (h) physical or mental condition or (i) family, social, or cultural background.
108. Izzy was bullied, abused, harassed, and excluded from activities because she was female, learning disabled, poor, homeless, and black.
109. Izzy was blatantly and frequently, bullied, abused excluded by her classmates who bullied, abused, and excluded her directly with impunity provided by deliberate indifference resulting in inaction and tacit approval.
110. She was indirectly excluded by the administration and faculty as her needs were consistently ignored and disregarded. Alternatively, faculty tacitly approved of the offensive conduct of others by doing nothing to stop or prevent it.
111. Davis County and Foxboro failed to treat Izzy with dignity and respect by ignoring her health, safety, bodily integrity, and unjustified intrusions to her personal security and well-being.
112. By failing to correct the students who bullied Izzy and engaged in abusive conduct, Davis County and Foxboro failed to maintain appropriate verbal, emotional and social boundaries necessary to protect Izzy from mental and emotional harm.

113. Davis and Foxboro have denied Izzy her right to a free, appropriate, public education by failing to follow UAR R277-217-3. Additionally, they have done so without Due Process as protected by both Utah and U.S. Constitutions.

11.

**Utah Administrative Rules
R277-217-3**

114. UAR R277-217-3 requires educators “to take prompt and appropriate action to prevent harassment or discriminatory conduct toward a student or school employee the educator knew or should have known may result in a hostile, intimidating, abusive, offensive, or oppressive environment” and educators must “take prompt and appropriate action to protect a student from any known condition detrimental to the student’s physical health, mental health, safety, or learning.”
115. Based upon the notes from Izzy’s file, Foxboro’s faculty reported, and administration was aware Izzy was possibly homeless.
116. Notes in Izzy’s file indicate faculty was concerned about her hygiene.
117. Izzy’s homelessness and hygiene issues are indicative of conditions detrimental to Izzy’s physical health, mental health, and ability to learn.
118. Foxboro Elementary teachers created a hostile environment for Izzy by openly commenting on Izzy’s hygiene and odor in front of other students.
119. With deliberate indifference, one teacher blatantly refused a request from Ms. Tichenor-Cox to stop making such abusive comments despite being informed she was creating a hostile environment for Izzy.
120. Despite being aware of Izzy’s potential homelessness and the circumstances created from homelessness, educators were deliberately indifferent to these circumstances. This is demonstrated by their failure to implement or provide information or services available for homeless children and their families.
121. Despite having been aware of Izzy’s homelessness and hygiene issues, educators failed to take prompt and appropriate action to protect Izzy from further circumstances, including additional bullying, abuse, racism, sexism, ableism, and classism detrimental to her physical health, mental health, personal security, bodily integrity, and ability to learn and thrive in a school setting.
122. Despite having been aware of Izzy’s potential homelessness and hygiene issues, educators failed to take prompt and appropriate action to protect Izzy from further circumstances detrimental to her physical health, mental health, safety, and learning.
123. Neither Foxboro nor Davis offered complete services available to families of homeless children.
124. Davis and Foxboro did not provide or make Izzy or her family aware of a place where they could shower and bathe.
125. They did not offer to provide dinner or other meals for the family.
126. They did not provide assistance finding a permanent place to live.
127. Davis and Foxboro have denied Izzy her right to a free, appropriate, public education by failing to follow UAR R277-217-3. Additionally, they have done so without Due Process as protected by both Utah and U.S. Constitutions.

12.

**McKinney-Vento
Education for Homeless Children and Youth
EHCY
42 U.S.C. 11431**

128. The Education for Homeless Children and Youth (EHCY) program provides protection for homeless children and youth and their families authorized under the McKinney-Vento Act.
129. EHCY provides supplemental instruction and other educational services for homeless children.
130. Izzy could have benefited from supplemental instruction if her parents were made aware of the opportunity.
131. EHCY also provides expedited evaluations to measure student's strengths and weakness. The act requires administrations to conduct these evaluations "promptly."
132. Foxboro did not complete Izzy's evaluation for autism because she passed away before it was scheduled months down the road.
133. EHCY Davis 3 makes special training available to heighten the understanding of and sensitivity to indicators of homelessness from children.
134. EHCY also provides for instruction on the Act, so teachers, faculty, and staff are better able to identify and provide for homeless children in their school.
135. EHCY makes a number of benefits available to Izzy and her family, but those benefits are useless if the family is not aware they request them. Families simply do not know what is available and don't ask.

13.

20 U.S.C. § 1681 *et seq*

Violation of Title IX

136. 20 U.S.C Code § 1681 prohibits exclusion from participation, denial of benefits, or subjected to discrimination under any educational program or activity receiving Federal financial assistance.
137. Davis School District and Foxboro Elementary receive Federal funds and are therefore subject to Title 9.
138. HB and others teased her about her developing body as well as her hair and the clothes she wore.
139. Other students harassed her regarding an "odor" they found offensive or amusing.
140. Izzy's teacher failed to recognize her in class when she was greeting the other children in the morning.
141. Foxboro Elementary teachers created a hostile environment for Izzy by openly commenting on Izzy's hygiene and odor in front of other students.
142. With deliberate indifference, one teacher blatantly refused a request from Ms. Tichenor-Cox to stop making such abusive comments despite being informed she was creating a hostile environment for Izzy.
143. Also, in the morning her teacher addressed each of the other children by name when they entered the class. Izzy did not receive the same greeting. She was further traumatized by the repeated exclusion and did not understand why she was not greeted.
144. The administration and faculty did not tell her family about available programs because either (1) they did not know about the programs or the requirement they extend them to students and families or (2) they did not care to ask a black, homeless woman whether or not she needed help insuring her children receive a free and adequate public education.
145. Davis and Foxboro have denied Izzy her right to a free, appropriate, public education by failing to comply with 20 U.S.C. § 1681, they have done so without Due Process as protected by both Utah and U.S. Constitutions.

14.

42 U.S.C. § 2000d, *et seq.*

Violation of Title VI

146. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
147. Davis School District and Foxboro Elementary receive Federal funds and are therefore subject to Title 6.
148. Izzy was harassed for being an African American.
149. HB teased her about her race, being poor, hair, odor, clothing, and being black. He made multiple attempts to touch her hair and emphasized how different it is from his own.
150. Other students harassed her regarding an "odor" they found funny because it was different, attributing it to her hair and race.
151. Izzy's teacher failed to recognize her in class and made no apparent effort to protect her from bullying, abuse, harassment, and cruelty because she didn't feel it was necessary to protect an African American child from physical or emotional abuse.
152. Izzy and her family were denied the benefit of 42 U.S.C. § 2000d.
153. Davis and Foxboro have denied Izzy her right to a free, appropriate, public education by failing to comply with 42 U.S.C. § 2000d, they have done so without Due Process as protected by both Utah and U.S. Constitutions.

15.
Utah Code § 76-5-102
Intentional and or Negligent
Infliction of Emotional Distress

154. Negligent infliction of emotional distress is defined in Utah Code § 76-5-2.

1)(a) as used in this section:

(i)(A) "Extreme emotional distress means an overwhelming reaction of anger, shock, or grief that:

I- causes the defendant to be incapable of reflection and restraint; and

II- would cause an objectively reasonable person to be incapable of reflection and restraint.

155. Davis School District and Foxboro Elementary demonstrated outrageous conduct toward Izzy and her family when they demonstrated deliberate indifference to their many complaints.
156. Davis School District and Foxboro Elementary demonstrated outrageous conduct toward Izzy and her family when they demonstrated deliberate indifference to her failing grades and being a social outcast.
157. This action is brought within four years of the outrageous conduct.
158. Izzy and Brittany Tichenor-Cox were both present at various times to observe and suffer the infliction of emotional distress.
159. Izzy and Brittany Tichenor-Cox were entitled to protections under each of the statutes indicated herein.
160. Davis and Foxboro each demonstrated Intentional and or Negligent imposition of emotional distress upon Izzy Tichenor when they failed to protect her in school due to their negligent understanding and implementation of the training programs necessary to educate faculty and staff regarding their obligations towards all students.

161. As a direct and proximate cause of their Negligent or Intentional deliberate indifference Izzy was left alone to deal with the bullying, abuse, harassment, racism, sexism, ableism, and suffered extreme emotional distress resulting in her death by suicide.

16.

Loss of Consortium

Utah Code § 30-2-11

162. Izzy Tichenor is the ten-year old daughter of Brittany Tichenor-Cox.
163. Brittany Tichenor-Cox anticipated parenting Izzy for the rest of her life.
164. Brittany anticipated being a grandparent to Izzy's children.
165. Brittany anticipated watching Izzy marry.
166. Brittany anticipated a life spend with her child.
167. Izzy died at her own hand after Davis and Foxboro Elementary failed to fulfill their legal obligations to protect and instruct Izzy.
168. This failure to act destroyed Izzy's sense of well-being.
169. Utah Law recognizes a cause of action for loss of consortium due to tortious injury to one's spouse.
170. Utah Supreme Court extended the right to recovery for loss of consortium to the relationship between parents and a minor child.
171. Justice Himonas reasoned, "Like the relationship between spouses, it tends to be a particularly close relationship highly valued in society."
172. Justice Himonas went on to recognize the legislature saw merit in re-creating the cause of action for loss of spousal consortium, [they] saw merit in extending the cause of action for loss of consortium with a minor child. *Benda v. Roman Catholic Bishop of Salt Lake City, dba Catholic Diocese of Salt Lake City*, 384 P.2d 207.
173. Izzy's death is proximately caused by defendants failure to follow the law and the tortious conduct towards Izzy.

DAMAGES

Violations of the McKinney Vento Act	\$100,000.00
Wrongful Death	\$1,000,000.00
Negligent or Intentional Infliction of Emotional Distress	\$1,000,000.00
Racial Discrimination	\$500,000.00
Gender Discrimination	\$500,000.00
Ableism Discrimination	\$500,000.00
Statutory violations	\$250,000.00
Constitutional Violations	\$250,000.00

Loss of Consortium	\$5,000,000.00
Punitive Damages	\$5,000,000.00

Defendants

Davis School District

Foxboro Elementary School

Davis School Board

Jane and John Does 1-10 – individual teachers, staff, and or administrators not currently known

Mr. Daniel Linford
Superintendent
Davis School Board
Director Tracy Robbins
Elementary School Director
Foxboro Elementary

Principal Chris Whitaker
Foxboro Elementary School

Davis School District
45 East State Street
P.O. Box 588
Farmington UT 84025
801 402-5261

These claims are also being pursued against the following government employee individually:

/s/ Tyler Ayres,
Attorney for Plaintiff

/s/ Milton Grimes
Attorney for Plaintiff