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12 Attorneys for Plaintiffs

13 IN THE UNITED STATES DISTRICT COURT  
14 FOR THE DISTRICT OF ALASKA

15 L. SHANE LAND and CHRISTI ANGELO,  
16 individually and as the parents of T.L., a  
17 minor child, on behalf of themselves all  
18 those similarly situated,

19 Plaintiffs,

20 vs.

21 MATANUSKA-SUSITNA BOROUGH  
22 SCHOOL DISTRICT, DAVID RUSSELL,  
23 ANGELA SNOW, and LAURA KELLY,

24 Defendants.

Case No. \_\_\_\_\_

**COMPLAINT**

**Jury Trial Demanded**

25 COME NOW the plaintiffs, L. Shane Land and Christi Angelo, individually and  
26 as the parents of plaintiff T.L.,<sup>1</sup> on behalf of themselves and all those similarly situated,  
27 \_\_\_\_\_

28 <sup>1</sup> Pursuant to Federal Rule of Civil Procedure 5.2(a)(3), this minor child is identified by his initials to protect his privacy.

1 alleging and requesting relief as follows:

2 **PRELIMINARY STATEMENT**

3 1. Plaintiffs bring this action to end the Matanuska-Susitna Borough School  
4 District's (hereinafter "MSBSD" or "the District") practice of using excessive and  
5 unjustified restraint and seclusion on disabled students. The District treats its vulnerable  
6 students like incarcerated criminals by using these demeaning and ineffectual practices to  
7 silence, detain, isolate, control, and punish students who have behavioral challenges as a  
8 manifestation of their disabilities.  
9  
10

11 2. Educators widely recognize that restraint and seclusion are dangerous,  
12 traumatizing, ineffective, counterproductive, and should be used only in rare *emergency*  
13 situations. These techniques should not be used as a substitute for evidence-based  
14 behavioral interventions for students with emotional and behavioral needs. Yet, since  
15 2015, there have been more than 1,800 documented incidents of restraints and seclusions  
16 in the District. The vast majority of these incidents involved students with one or more  
17 disabilities. And these are just the *documented* incidents. Plaintiffs allege upon  
18 information and belief that the actual number of restraints and seclusions is much higher.  
19  
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21

22 3. MSBSD uses restraint and seclusion as a routine response to address  
23 noncompliant student behavior, even in the absence of any safety threat or when less  
24 restrictive methods would have been successful in preventing or mitigating the safety  
25 threat. MSBSD uses these techniques as punishment and/or to achieve behavioral  
26 compliance, instead of using positive behavioral interventions and supports, de-escalation  
27 techniques, and otherwise accommodating students with disabilities.  
28

1           4.     MSBSD repeatedly uses restraint and seclusion on students without  
2 determining if current interventions and supports are being implemented properly, and  
3 without determining whether additional or different interventions or supports may be  
4 needed.  
5

6           5.     By relying on restraint and seclusion as a behavior management tool in lieu  
7 of positive behavioral interventions that are proven to be more effective at deescalating  
8 behaviors, MSBSD has repeatedly violated state and federal law and its own guidelines  
9 on the use of these techniques. In doing so, the District has systematically discriminated  
10 against students with disabilities.  
11

12           6.     As a result of the District’s excessive and illegal use of restraint and  
13 seclusion, Plaintiff T.L. and a class of similarly situated students have suffered significant  
14 injuries and trauma, have been segregated from their peers, have missed significant  
15 instructional time, and have been denied equal and meaningful access to the District’s  
16 programs and services.  
17

18           7.     MSBSD has also failed to document and report its use of restraint and  
19 seclusion in accordance with state law. Thus, the District has misled parents about the  
20 mistreatment of their children at school and has misrepresented the frequency of its use  
21 of restraint and seclusion in its required annual reports to the Alaska Department of  
22 Education and Early Development (“DEED”).  
23

24           8.     MSBSD is the second-largest school district in Alaska. In February 2023,  
25 Alaska’s largest school district – the Anchorage School District (“ASD”) – agreed to a  
26 settlement with the United States Justice Department, whereby it agreed to completely  
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1 eliminate the use of seclusion at all district schools at the beginning of the 2023–2024  
2 school year. ASD also agreed to ensure that students are restrained only when their  
3 behavior poses an imminent danger of serious physical harm to the student or another  
4 person; to properly document and report all restraints; to create classroom management  
5 plans for specialized programs serving students with disabilities that will promote and  
6 reinforce positive behaviors and guide staff in employing appropriate de-escalation  
7 techniques; and to appoint an administrator to monitor the district’s restraint practices.  
8  
9 Plaintiffs bring this action to obtain similar relief for the students and parents of MSBSD.  
10

### 11 **JURISDICTION AND VENUE**

12  
13 9. This Court has subject matter jurisdiction over this action pursuant to 28  
14 U.S.C. §§ 1331 and 1343. This Court has supplemental jurisdiction over the plaintiffs’  
15 state law claims pursuant to 28 U.S.C. § 1367 because they arise from a common nucleus  
16 of operative facts.  
17

18 10. Pursuant to 28 U.S.C. § 1391(b), venue is proper in the District of Alaska  
19 because the events or omissions giving rise to this complaint wholly or substantially  
20 occurred within the district.  
21

### 22 **PARTIES**

23 11. Plaintiff T.L. is a minor child whose date of birth is March 21, 2016. T.L.  
24 is a citizen of the United States and a resident of the State of Alaska. T.L. resides in  
25 Wasilla, Alaska, within the boundaries of MSBSD. During all relevant times, T.L. was a  
26 “qualified individual with a disability” within the meaning of the Americans with  
27  
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1 Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act of 1973 (“Section  
2 504”). T.L. brings this action through his parents, Shane Land and Christi Land.

3  
4 12. Plaintiff L. Shane Land is a natural person who is a United States citizen  
5 and a resident of the State of Alaska. Mr. Land is T.L.’s father.

6 13. Plaintiff Christi Angelo is a natural person who is a United States citizen  
7 and a resident of the State of Alaska. Ms. Angelo is T.L.’s mother.

8  
9 14. Mr. Land and Ms. Angelo are collectively referred to as “Parents” in this  
10 Complaint.

11 15. Defendant Matanuska-Susitna Borough School District is a borough school  
12 district organized and operating under the laws of Alaska. *See* AS 14.12.010(2). It  
13 operates 49 schools and provides educational services for more than 19,000 students  
14 within the Matanuska-Susitna Borough. MSBSD receives financial assistance from the  
15 federal government.

16  
17 16. Defendant David Russell is employed by MSBSD as the principal of Shaw  
18 Elementary School in Wasilla. Defendant Russell is sued in his official capacity for  
19 purposes of injunctive relief and in his individual capacity for damages.

20  
21 17. Defendant Angela Snow is employed by MSBSD as a “tutor advisor” at  
22 Shaw Elementary. Defendant Snow is sued in her official capacity for purposes of  
23 injunctive relief and in her individual capacity for damages.

24  
25 18. Defendant Laura Kelly was employed by MSBSD as a paraprofessional at  
26 Shaw Elementary School during the 2022–2023 school year. Defendant Kelly is sued in  
27 her individual capacity.  
28



1 immediately when the student no longer poses an imminent danger of physical injury to  
2 anyone or when a less restrictive intervention would be effective to stop the danger of  
3 physical injury.  
4

5         22. Under AS 14.33.125(c)(3), school personnel may not “physically restrain a  
6 student by placing the student on the student’s back or stomach or in a manner that  
7 restricts the student’s breathing.”  
8

9         23. Due to the risks inherent in placing a child in a physical restraint or in an  
10 isolation room, which are described further below, schools are required to document *each*  
11 time such an intervention is used. Under AS 14.33.125(d), school personnel who restrain  
12 or seclude a student must provide a written report of the incident to the student’s parents  
13 and/or legal guardians. The report must include the date and time of the incident; the  
14 names and job titles of school personnel who participated in or supervised the incident; a  
15 description of the activity that preceded the incident, including efforts and strategies used  
16 with the student before the incident; a description of the incident, including the type and  
17 duration of the intervention used; and a description of how the incident ended, including  
18 any further action taken. This report must be given “on the same day as the incident.” AS  
19 14.33.120(b).  
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23         24. Under AS 14.33.125(e), school districts must establish a review process and  
24 must conduct a review for each incident that involves the restraint or seclusion of a  
25 student. The review must be conducted as soon as practicable after the event and include  
26 staff review of the incident; follow-up communication with the student and the student’s  
27 parent or legal guardian; and a review of and recommendations for adjusting or amending  
28

1 procedures, strategies, accommodations, individualized education plans, or other student  
2 behavior plans, or for additional staff training.

3  
4 25. According to Representative Charisse Millett’s Sponsor Statement for the  
5 bill that was eventually codified in AS 14.33.125, the purpose of the statute was to  
6 “protect students from trauma, keep parents informed of what happens to their child, and  
7 support teachers and school personnel tasked with incredibly difficult decisions.”  
8  
9 *Sponsor Statement for House Bill 210*, available at  
10 [https://www.akleg.gov/basis/get\\_documents.asp?session=28&docid=23708](https://www.akleg.gov/basis/get_documents.asp?session=28&docid=23708). At a  
11 February 12, 2014 hearing of the House Education Standing Committee, a staffer for  
12 Representative Millet explained that “the requirement for timely notice to the parent was  
13 the impetus for bringing this bill forward.” At a subsequent hearing of the House Finance  
14 Committee on March 25, 2014, Representative Millet herself explained that parental  
15 notification was essential to ensure that restraint and seclusion were not being “overused  
16 or misused.” Representative Millet further explained that parent notification “alert[s] the  
17 parents and allow[s] them to prepare for the resulting consequences in the child’s  
18 behavior. If a parent had an autistic child and was not notified that a child had been  
19 restrained they could have no idea why a child’s behavior had changed drastically from  
20 earlier in the day.”  
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23

#### 24 **MSBSD’s Policies on Restraint and Seclusion**

25  
26 26. The governing Board of MSBSD has adopted a Board Policy and an  
27 Administrative Regulation on the use of restraint and seclusion on the District’s students.

28 27. Board Policy 5142.03 states that “[t]he Board believes that a safe



1 educational environment is necessary for learning and understands there are times when  
2 student behavior may impact the safety of that student or others. To the maximum extent  
3 appropriate, the safety and welfare of students and staff should be secured through  
4 positive behavioral interventions. The use of physical restraint and seclusion is prohibited  
5 except in emergency situations . . . .”

7  
8 28. Under Board Policy 5142.03, chemical or mechanical restraint of students  
9 is never allowed. Furthermore, physical restraint is prohibited “unless the student’s  
10 behavior poses an imminent danger of physical injury to the student or others and less  
11 restrictive interventions would be ineffective at stopping the imminent danger. To the  
12 extent possible without compromising safety, other interventions should be attempted  
13 prior to the use of restraint. Restraint must be limited to that necessary to address the  
14 emergency and must be immediately discontinued when the student no longer poses an  
15 imminent danger or when a less restrictive intervention is effective to stop the danger.”

17  
18 29. Under Board Policy 5142.03, physical restraint “may not be used as a form  
19 of discipline, to force compliance, as a convenience for staff, or as a substitute for  
20 appropriate educational support.”

21  
22 30. Under Board Policy 5142.03, physical restraint “must be implemented in a  
23 manner that protects the health and safety of the student and others. Restraint may be  
24 administered only by staff trained in crisis intervention, de-escalation, and safe restraint,  
25 unless a trained person is not immediately available and the circumstances are rare and  
26 present an unavoidable and unforeseen emergency. Restraint may not prevent or restrict  
27 the student from breathing or speaking nor may it restrict circulation. Prone or supine  
28

1 restraint, which occurs when the student is placed on his or her stomach or back, is  
2 expressly prohibited. A student’s well-being must be monitored during restraint through  
3 the use of continuous face-to-face contact or, if face-to-face contact is unsafe, by  
4 continuous direct visual supervision.”

6 31. Board Policy 5142.03 also regulates the use of seclusion by district  
7 personnel. Under this policy, a seclusion “should last only as long as necessary to resolve  
8 the actual risk of imminent danger or when a less restrictive intervention is effective to  
9 stop the danger. Seclusion should never be used as a form of discipline, to force  
10 compliance, or as a substitute for appropriate educational support.” Furthermore, a  
11 seclusion “must be sensitive to any particular vulnerabilities of the student and to the  
12 student’s developmental level.”

15 32. Board Policy 5142.03 requires the District’s staff to review each incident  
16 of restraint and seclusion “[a]s soon as practicable” after the incident. This review must  
17 include “review of and recommendations for adjusting or amending, as applicable,  
18 procedures, strategies, accommodations, the [Individualized Education Program  
19 (“IEP”)], a student behavior plan, or additional staff training. Follow-up communication  
20 shall occur with the student and parent/legal guardian regarding the review process and  
21 outcomes.”

24 33. For students who are disabled and have an IEP, Board Policy 5142.03  
25 allows the use of restraint and seclusion only if “determined appropriate by the IEP team  
26 after considering all less restrictive alternatives.”

28 34. Board Policy 5142.03 requires the District to document *each* incident of

1 restraint and seclusion. “A written report must be prepared by school personnel who  
2 restrain or seclude a student and provided to the school administrator. The report must  
3 include: the date and time of the incident; names and job titles of the school personnel  
4 who participated or supervised; a description of the conduct that preceded the incident,  
5 including efforts and strategies utilized prior to restraint or seclusion; a description of the  
6 restraint or seclusion, including duration; and a description of how the incident ended,  
7 including any further action taken.” A copy of this report must be provided to the student’s  
8 parents/legal guardians *on the same day* of the incident.  
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11           35. Administrative Regulation 5142.03 states that the “David Mandt and  
12 Associates” training program (hereinafter “the Mandt System”) “will be used for training  
13 staff members in use of evidence based techniques related to positive behavior supports,  
14 conflict prevention and management techniques, skills to de-escalate student behavior,  
15 understanding antecedents; the safe use of restraint or seclusion in emergency situations;  
16 and applicable policies and procedures.”  
17

18           36. The Mandt System is an evidence-based training program for managing  
19 challenging behavior, de-escalation, and crisis prevention techniques. The Mandt System  
20 teaches certain restraints that can be safely applied, but only as a last resort when  
21 preventative efforts and de-escalation have proven ineffective to stop the dangerous  
22 behavior. At the same time, certain types of restraints that can cause injury and impede  
23 breathing or communication – such as take-down maneuvers, floor restraints, and hyper-  
24 extension of joints – are prohibited under the Mandt System.  
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1                   **MSBSD’s Use of Restraint and Seclusion on Disabled Students**

2           37.     Despite its own policies and the requirements of state law, MSBSD has  
3 allowed its staff to engage in a pattern and practice of restraining and secluding students  
4 with disabilities as a routine response to maladaptive behaviors, without first exhausting  
5 the use of less restrictive measures and accommodations. MSBSD has also condoned the  
6 use of restraint and seclusion when a student’s behavior poses no imminent danger to  
7 anyone. MSBSD uses restraint and seclusion as a common disciplinary method for  
8 students with disabilities, rather than limiting those techniques to *rare* emergency  
9 situations where no safe alternative exists.  
10

11           38.     From the start of the 2015–2016 school year through the end of the 2022 –  
12 2023 school year, there were 1,804 documented incidents involving the restraint or  
13 seclusion of a student in the District. The vast majority of these incidents involved  
14 students with disabilities.  
15

16           39.     During the 2021–2022 school year, MSBSD reported 235 incidents of  
17 restraint and seclusion. Of these, 31 involved a student with a cognitive/intellectual  
18 disability, 72 involved a student with an emotional disturbance, 56 involved a student  
19 with early childhood developmental delay, eight involved a student with autism, 38  
20 involved a student with an “other health impairment,” and 25 involved a student with  
21 multiple disabilities. Thus, approximately 98 percent of the incidents of restraint and  
22 seclusion by District personnel during the 2021–2022 school year involved students with  
23 disabilities.  
24

25           40.     For context, during the same 2021–2022 school year, the Los Angeles  
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1 Unified School District, which serves more than 550,000 students, reported only 119  
2 restraints and zero seclusions in schools operated by the district.

3  
4 41. During the 2022–2023 school year, MSBSD reported 208 incidents of  
5 restraint and seclusion. Of these, 72 involved a student with a cognitive/intellectual  
6 disability, 41 involved a student with an emotional disturbance, 63 involved a student  
7 with early childhood developmental delay, eight involved a student with autism, and 18  
8 involved a student with an “other health impairment.” Thus, approximately 97 percent of  
9 the incidents of restraint and seclusion by District personnel during the 2022–2023 school  
10 year involved students with disabilities.  
11

12  
13 42. Plaintiffs allege upon information and belief that MSBSD has significantly  
14 underreported the incidents of restraint and seclusion in the District. In a 2019 report, the  
15 U.S. Government Accountability Office (“GAO”) found a “pervasive pattern of  
16 underreporting of restraint and seclusion in U.S. public schools.” U.S. Gov’t  
17 Accountability Off., *K-12 Education: Education Should Take Immediate Action to*  
18 *Address Inaccuracies in Federal Restraint and Seclusion Data* at 9 (June 18, 2019),  
19 available at: <https://files.eric.ed.gov/fulltext/ED600152.pdf>. Indeed, Parents have  
20 personally observed multiple incidents of restraint and/or seclusion of T.L. that were  
21 never reported by the District.  
22  
23

#### 24 **Restraint and Seclusion Traumatizes Students**

25  
26 43. The trauma inflicted upon children who are subjected to restraint and  
27 seclusions has been documented by the federal government and in numerous studies.

28 44. In a 2009 report, the GAO found that “these techniques can be dangerous

1 because they may involve physical struggling, pressure on the chest, or other interruptions  
2 in breathing.” U.S. Gov’t Accountability Off., *Seclusions and Restraints Selected Cases*  
3 *of Death and Abuse at Public and Private Schools and Treatment Centers* at 1 (May 19,  
4 2009), available at: <https://www.gao.gov/new.items/d09719t.pdf>. “Even if no physical  
5 injury is sustained, . . . individuals can be severely traumatized during restraint.” *Id.*  
6

7  
8 45. According to the U.S. Department of Education’s Office for Civil Rights,  
9 “[a] school’s use of restraint or seclusion may have a traumatic impact on a student, such  
10 that even if she were never again restrained or secluded, she might nevertheless have new  
11 academic or behavioral difficulties . . . . That traumatizing effect could manifest itself in  
12 new behaviors, impaired concentration or attention in class, or increased absences . . . .”  
13 U.S. Dep’t of Ed. Off. for Civ. Rights, *Fact Sheet: Restraint and Seclusion of Students*  
14 *with Disabilities* at 1 (Dec. 28, 2016), available at:  
15 [https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-](https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf)  
16 [seclusion-ps.pdf](https://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201612-504-restraint-seclusion-ps.pdf).  
17  
18

19 46. The Council for Children with Behavioral Disorders (“CCBD”) has  
20 highlighted the psychological impacts that restraint and seclusion can have on children.  
21 The effects of restraints can “range from short-term such as fear and an adrenaline rush  
22 of physical confrontation to long-term effects such as Post Traumatic Stress Disorder.”  
23 Council for Children with Behavioral Disorders, *CCBD’s Position Summary on The Use*  
24 *of Physical Restraint Procedures in School Settings* at 5 (July 8, 2009),  
25 [https://higherlogicdownload.s3.amazonaws.com/SPED/bc40048c-cf24-4380-a493-](https://higherlogicdownload.s3.amazonaws.com/SPED/bc40048c-cf24-4380-a493-273ff305ca3c/UploadedImages/CCBD%20Position%20on%20Use%20of%20Restraint)  
26 [273ff305ca3c/UploadedImages/CCBD%20Position%20on%20Use%20of%20Restraint](https://higherlogicdownload.s3.amazonaws.com/SPED/bc40048c-cf24-4380-a493-273ff305ca3c/UploadedImages/CCBD%20Position%20on%20Use%20of%20Restraint)  
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1 [%207-8-09.pdf](#). With regard to seclusions, CCBD states that “a wide variety of injuries  
2 and deaths have occurred while students are in seclusion environments including suicide,  
3 electrocution, and self injury due to cutting, pounding, and head banging.” The Council  
4 for Children with Behavioral Disorders, *CCBD’s Position Summary on The Use of*  
5 *Seclusion in School Settings* at 4 (July 8, 2009),  
6 [https://higherlogicdownload.s3.amazonaws.com/SPED/bc40048c-cf24-4380-a493-  
7 273ff305ca3c/UploadedImages/CCBD%20Position%20on%20Use%20of%20Seclusion  
8 %207-8-09.pdf](https://higherlogicdownload.s3.amazonaws.com/SPED/bc40048c-cf24-4380-a493-273ff305ca3c/UploadedImages/CCBD%20Position%20on%20Use%20of%20Seclusion%207-8-09.pdf). Seclusions may also cause “continuing significant psychological  
9 damage.” *Id.* at 5.  
10  
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12  
13 47. Restraint and seclusion negatively impact a child’s learning. This is because  
14 exposure to trauma decreases neural connectivity in the parts of the brain responsible for  
15 executive functioning, memory, logical and sequential thinking, and language  
16 development. Exposure to trauma also frequently induces maladaptive behaviors by  
17 causing deficits in emotional self-regulation.  
18

19 48. The reflexive use of restraint and seclusion to achieve behavioral control  
20 fails to teach students important adaptive behaviors, including how to communicate and  
21 interact with peers and staff in a positive way.  
22

23 49. Restraint and seclusion are not only harmful techniques, but they are also  
24 less effective than alternative evidence-based approaches – such as Multi-Tiered Systems  
25 of Support (“MTSS”) and Positive Behavioral Interventions and Supports (“PBIS”) – for  
26 addressing maladaptive behaviors. These safer and less traumatic interventions have been  
27 successfully implemented in numerous school districts across the country, eliminating  
28

1 seclusion entirely and reducing physical restraint to an extremely rare occurrence. These  
2 non-physical interventions are linked to positive outcomes, such as greater academic  
3 achievement, fewer disciplinary problems, and fewer injuries to school staff.  
4

5 **MSBSD’s Seclusions and Restraints of T.L.**

6 50. Plaintiff T.L. is currently seven years old. During the 2022–2023 school  
7 year, when the relevant events occurred, T.L. weighed approximately 50 pounds.  
8

9 51. At all relevant times, T.L. has been eligible to receive special education and  
10 related services from the District under the disability category of Early Childhood  
11 Developmentally Delayed.  
12

13 52. As a result of his disability, T.L. has challenges with social communication,  
14 expressive and receptive language, and sometimes engages in maladaptive behaviors at  
15 school, including non-compliance, aggression, and elopement.  
16

17 53. The District developed a Behavioral Intervention Plan (“BIP”) for T.L. on  
18 March 25, 2022. The BIP stated that “the team will use reboot interventions for unsafe  
19 behaviors.” The term “reboot interventions” is not defined in the BIP. However, Parents  
20 were given a handout that explains the “reboot process.” The handout states that when a  
21 student makes “a bad choice in the classroom,” the student will “reboot” by first going to  
22 a “cool off area,” and then doing work folders or a “thinking sheet” at the “reboot desk,”  
23 after which the student would talk with the teacher about “how to fix my problem,” make  
24 any apologies, and only then return to the activity the student was engaged in before the  
25 reboot. The BIP stated that to “process out” of a reboot, T.L. “is calm first then chooses  
26 three physical activities from a visual menu (wall pushups, guided deep breaths, jumping  
27  
28



1 jacks) and then discusses what behavior was unsafe and what he can do next time.”

2           54. The BIP includes a “crisis plan” for when T.L. “escalates” and “becomes  
3 aggressive.” The crisis plan states: “If [T.L.] becomes aggressive, staff will respond  
4 immediately by alerting the necessary staff . . . for support via verbal or radio. [T.L.] will  
5 be requested to take a safe break in the safe room. If he does not comply *staff will use*  
6 *MANDT techniques* to guide him to the safe space. Once there, a staff member will stay  
7 with him. [T.L.] will be reminded of safe options every 2 to 3 minutes. The office will be  
8 alerted as needed. A log will be kept.” (emphasis added).

9           55. T.L. was placed in the Structured Learning Program at Shaw Elementary at  
10 the start of the 2022–2023 school year. This program is designed for students who have  
11 significant social communication and behavioral needs and require instruction in a  
12 structured setting. It claims to integrate principles of applied behavior analysis (“ABA”)  
13 and other evidence-based practices to develop skills related to social interaction,  
14 pragmatic language, perspective taking, organization, and emotional regulation.

15           56. Shaw Elementary has a seclusion room, which is euphemistically called the  
16 “Zen Den.” It is a cinder block walled room, with dimensions measuring 6’4”x 5’6 ½” x  
17 8’9” (L x W x H). Students who are placed in the seclusion room are physically prevented  
18 from leaving by a metal door that is closed and cannot be opened from the inside. School  
19 personnel can only observe students in the seclusion room through a small slit window.

20           57. Below is a photograph of the seclusion room at Shaw Elementary (although  
21 the stuffed animal on the floor is not typically in the room):  
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58. Between August 30, 2022 and September 30, 2022, T.L. missed more than seven hours of instruction because he was placed in “reboot” for eight separate behavioral incidents. Plaintiffs allege upon information and belief that T.L. was placed in the seclusion room during some of these “reboot” incidents. Parents were not notified of these behavioral incidents until March 2023. The vast majority of incidents were described as either “not following directions,” “refusal,” or “disrespect,” which are *not* grounds for a “reboot” under the operative BIP, and posed no imminent danger of physical injury to anyone.

59. On September 13, 2022, T.L. was placed in solitary confinement in the seclusion room for 16 minutes as a result of allegedly engaging in aggressive behaviors with staff. Contrary to the requirements of AS 14.33.125(d), Parents did not receive a report of the September 13, 2022 seclusion until March 2023, nor did the District engage

1 in the review process required by AS 14.33.125(e). While the report of the incident states  
2 that “Team met to adjust/review deescalation strategies,” Parents were excluded from this  
3 “team” discussion. No changes were made to T.L.’s IEP or BIP at this time, nor did the  
4 District perform a functional behavior assessment (“FBA”) to gain a better understanding  
5 of the root causes of T.L.’s alleged behaviors.  
6

7  
8 60. On October 14, 2022, T.L. was secluded again for 38 minutes in the “Zen  
9 Den” for allegedly engaging in aggressive behaviors with staff. Once again, Parents did  
10 not receive a report of this incident until March 2023, in violation of AS 14.33.125(d).  
11 Once again, the District did not communicate with Parents about adjusting T.L.’s IEP or  
12 BIP or performing additional assessments.  
13

14 61 Between January 10, 2023 and March 2, 2023, T.L. missed more than 48  
15 hours of instruction because he was placed in “reboot” for 24 separate behavioral  
16 incidents. Plaintiffs allege upon information and belief that T.L. was placed in the  
17 seclusion room during some of these “reboot” incidents. Parents were not notified of these  
18 behavioral incidents until March 8, 2023. Some of the incidents involved “disrespectful  
19 behavior,” “not following directions,” and “refusal/disrespect,” which are *not* grounds for  
20 a “reboot” under the operative BIP, and posed no imminent danger of physical injury to  
21 anyone.  
22

23  
24 62. On February 7, 2023, the District secluded T.L. for ten minutes for  
25 allegedly punching a paraprofessional in the stomach. Parents did not receive a report of  
26 this incident until March 2023.  
27

28 63. On February 10, 2023, the District placed T.L. in the seclusion room two

1 separate times, for a total of 187 minutes, for allegedly engaging in physically and  
2 verbally aggressive behaviors and elopement. Parents did not receive a report of these  
3 incidents until March 2023.  
4

5 64. Each of the five reported incidents of seclusion during the 2022–2023  
6 school year was preceded by T.L. refusing to work in the classroom. Because the ad hoc  
7 interventions used by District personnel in responding to T.L.’s work refusals were  
8 ineffective, his behaviors frequently escalated to aggression and elopement. Yet, during  
9 the 2022–2023 school year, the District never performed an FBA to determine the  
10 functions of T.L.’s work refusals. Nor were any adjustments made to the BIP to  
11 effectively manage T.L.’s behaviors, which were obviously interfering with his ability to  
12 learn at school. T.L. missed many hours of instruction while he was placed in seclusion  
13 or in the “reboot” process.  
14  
15

16 65. In all five of the reported incidents of seclusion during the 2022–2023  
17 school year, the District used solitary confinement as a punitive measure. There was never  
18 any imminent danger of physical injury to anyone (nor were any injuries actually  
19 sustained by any students or staff) and/or less restrictive interventions could have been  
20 effectively used to mitigate any imminent danger.  
21  
22

23 66. On March 7, 2023, District personnel restrained T.L. multiple times, using  
24 techniques that are prohibited under AS 14.33.125(c) and/or the Mandt System.  
25

26 67. During the morning of March 7, 2023, Defendant Laura Kelly, a  
27 paraprofessional in T.L.’s classroom, applied a jaw hold, placing three fingers into T.L.’s  
28 mouth and her thumb under his chin, picked him up from behind, and dropped him to the

1 floor. When T.L. stood up, Ms. Kelly applied a prohibited wrist lock and dragged T.L.  
2 into the seclusion room, pushed him to the floor, and slammed the door shut. Parents have  
3 never received a report of this incident, in violation of AS 14.33.125(d).  
4

5 68. During an elopement incident later on the same day, defendants David  
6 Russell and Angela Snow applied restraints that are prohibited under AS 14.33.125(c)  
7 and/or the Mandt system. This incident was captured on video by the District's  
8 surveillance cameras. Parents never received a report of this incident, in violation of AS  
9 14.33.125(d).  
10

11 69. When T.L. came home from school on March 7, 2023, Parents observed  
12 significant injuries on his back, as shown in the photographs below. T.L. also complained  
13 that his jaw and left wrist and forearm were hurting.  
14





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11 70. Initially, Parents were told by Mr. Russell (and only after sending an urgent  
12 email requesting a call back) that T.L. had tripped and “fallen” at school and suffered a  
13 rug burn injury to his back. However, Parents knew that the deep tissue injuries shown in  
14 the above photographs were inconsistent with Mr. Russell’s story. Moreover, Parents had  
15 not received any notification during the school day that T.L. was involved in any type of  
16 “fall” and had sustained an injury. Searching for answers, Parents requested to view the  
17 video footage of the incidents.  
18

19  
20 71. MSBSD has consistently maintained that T.L. was never restrained on  
21 March 7, 2023. Not only is that belied by the video surveillance footage, but T.L.’s Health  
22 Summary on ParentVue – the portal used by the District to share a child’s current and  
23 historical information – shows that T.L. was visited twice by school nurse Nathan Leake  
24 that day, immediately following the two incidents in the morning and the afternoon.  
25

26 72. On March 10, 2023, Mr. Land met with Robyn Harris, the Executive  
27 Director of Student Support Services for the District. It was during this meeting that  
28

1 Parents received for the first time a copy of the reports for five incidents of seclusion  
2 during the 2022–2023 school year. Ms. Harris stated that these seclusion reports were “all  
3 of them.” However, Parents had observed T.L. in the seclusion room on numerous other  
4 occasions when they were called to pick T.L. up from his classroom due to his behaviors.  
5 For instance, on one occasion in February 2023, Mr. Land witnessed Mr. Russell  
6 physically blocking the door to the seclusion room with T.L. inside. Mr. Land was told  
7 that T.L. was in the seclusion room because he had disrespectfully “shaken his fist” at  
8 Mr. Russell, a behavior which posed no imminent danger of physical injury to anyone.  
9  
10

11           73. On March 21 and 24, 2023, Mr. Land was allowed to view video footage  
12 of the March 7th incident. The videos clearly showed that Mr. Russell was lying when he  
13 said that T.L. had tripped and fallen at school. Instead, the videos showed that at  
14 approximately 12:59 p.m. on March 7, 2023, T.L. exited through the double doors of the  
15 school building towards the playground area. Less than a minute later, T.L. turned around  
16 and went back inside the school building on his own accord. He was calm and safely  
17 inside the building and did not pose an immediate danger to himself or any other person.  
18 Nevertheless, Defendant Snow grabbed T.L. by the wrist and began restraining him,  
19 which only escalated his behaviors and caused him to attempt to flee.  
20  
21

22           74. During the ensuing three minutes, T.L. was repeatedly manhandled and  
23 restrained by Mr. Russell, Ms. Snow, and two unidentified female staff members, which  
24 resulted in a prohibited floor restraint being applied by Mr. Russell while T. L. was on  
25 his back.  
26  
27

28           75. After T.L. was brought back up to his feet, Mr. Russell and Ms. Snow

1 applied an expressly prohibited double-arm restraint technique where they picked him up  
2 by his elbows in a locked position and with his shoulders pushed in an upward position  
3 due to the leverage applied to the elbows. Mr. Russell and Ms. Snow dragged T.L., with  
4 his feet hanging and off the floor, down the entirety of the hallway until they entered  
5 T.L.'s classroom and placed him in the seclusion room. Again, no report of either the  
6 restraints or the seclusion have ever been provided to Parents.  
7

8  
9 76. The double-arm technique used by Mr. Russell and Ms. Snow on T.L. is  
10 prohibited under the Mandt System because it uses pain to control a subject and creates a  
11 high risk of joint hyperextension and/or dislocation. Dragging an individual with their  
12 feet leaving the floor is also a prohibited practice under the Mandt System, except in the  
13 case of an emergency.  
14

### 15 **CLASS ACTION ALLEGATIONS**

16  
17 77. Plaintiffs bring this action on behalf of themselves and on behalf of all  
18 persons similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure.

19 78. Plaintiff T.L. seeks to represent a subclass composed of all current MSBSD  
20 students with an identified disability (including, but not limited to, students with an IEP  
21 or 504 plan) who have been subjected to a "restraint" or "seclusion" by District personnel,  
22 as those terms are defined under AS 14.33.125(g). Plaintiff T.L. and the members of this  
23 proposed subclass are collectively called the "Student Subclass" in this Complaint.  
24

25  
26 79. Plaintiffs Shane and Christi Land seek to represent a subclass composed of  
27 all parents and legal guardians of current MSBSD students with an identified disability  
28 (including, but not limited to, students with an IEP or 504 plan) who were subjected to a



1 “restraint” or “seclusion” by District personnel, as those terms are defined under AS  
2 14.33.125(g). Plaintiffs Shane and Christi Land and the members of this proposed  
3 subclass are collectively called the “Parent Subclass” in this complaint.  
4

5 80. All requirements of Rule 23(a) are met in this case. Specifically,

6 a. The Student Subclass and Parent Subclass are both so numerous that  
7 joinder of all members is impracticable. The number of individuals in the proposed  
8 subclasses is presently unknown and can only be determined through discovery.  
9 However, the plaintiffs are informed and believe that there are more than 40  
10 individuals in each subclass.  
11

12 b. There are questions of law or fact common to the subclasses,  
13 including (i) whether MSBSD’s disproportionate use of restraint and seclusion on  
14 students with disabilities discriminates against the members of the Student  
15 Subclass; (ii) whether MSBSD’s disproportionate use of restraint and seclusion  
16 excluded the members of the Student Subclass from participation in or denied them  
17 the benefits of the District’s services, programs, or activities by reason of their  
18 disabilities; (iii) whether MSBSD denied the members of the Student Subclass an  
19 equal opportunity to participate in and benefit from MSBSD’s education program;  
20 (iv) whether MSBSD failed to provide the members of the Student Subclass with  
21 reasonable modifications that would obviate or reduce the need for restraint and  
22 seclusion; (iv) whether MSBSD unnecessarily segregated the members of the  
23 Student Subclass, depriving them of the most integrated setting appropriate; and  
24 (v) whether MSBSD has a pattern and practice of violating AS 14.33.120(b) and  
25  
26  
27  
28

1 AS 14.33.125(d) by failing to provide the members of the Parent Subclass with a  
2 written report on the same day as each incident of a restraint or seclusion.

3 c. The claims of the representative plaintiffs are typical of those of the  
4 class.  
5

6 d. The representative plaintiffs will fairly and adequately represent the  
7 class. Neither the representative plaintiffs nor undersigned counsel have  
8 interests which might cause them not to vigorously pursue this action.  
9

10 81. Certification of a class under Federal Rule of Civil Procedure 23(b)(2) is  
11 appropriate because MSBSD has acted or refused to act on grounds that apply generally  
12 to each subclass, so that final injunctive relief or corresponding declaratory relief is  
13 appropriate respecting each subclass as a whole.  
14

### 15 **CLAIMS FOR RELIEF**

#### 16 **FIRST CLAIM FOR INJUNCTIVE RELIEF ON BEHALF OF STUDENT** 17 **SUBCLASS AGAINST MSBSD – VIOLATION OF SECTION 504 OF THE** 18 **REHABILITATION ACT**

19 82. Plaintiffs repeat and incorporate by reference the allegations in each of the  
20 preceding paragraphs.  
21

22 83. Under Section 504 of the Rehabilitation Act, a “qualified individual with a  
23 disability” may not, solely by reason of disability, be subjected to discrimination,  
24 excluded from participation in, or denied the benefits of any “program or activity” that  
25 receives federal financial assistance. 29 U.S.C. § 794(a).  
26

27 84. Plaintiff T.L. and each member of the Student Subclass is a “qualified  
28 individual with a disability” under Section 504 and its implementing regulations, because

1 they have a condition that substantially limits one or more major life activities.

2 85. Under Section 504, a “program or activity” is defined to include a local  
3 educational agency. 29 U.S.C. § 794(b)(2)(B).  
4

5 86. MSBSD is a local educational agency that receives federal financial  
6 assistance.  
7

8 87. The regulations implementing Section 504 require a public elementary or  
9 secondary education program or activity to provide a “free appropriate public education”  
10 to each qualified individual with a disability within its jurisdiction, regardless of the  
11 nature or severity of the person’s disability. 34 C.F.R. § 104.33(a). An “appropriate”  
12 education requires the provision of regular or special education and related aids and  
13 services that are designed to meet a disabled student’s needs as adequately as the needs  
14 of non-disabled students. 34 C.F.R. § 104.33(b)(1).  
15

16 88. In a December 28, 2016 *Dear Colleague Letter*, OCR issued guidance to  
17 school districts on how the use of restraint and seclusion may result in discrimination  
18 against students with disabilities, in violation of Section 504. *See* U.S. Dep’t of Ed. Off.  
19 for Civ. Rights, *Dear Colleague Letter: Restraint and Seclusion of Students with*  
20 *Disabilities* at 1-2 (Dec. 28, 2016), available at  
21 [https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-  
23 seclusion-ps.pdf](https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-<br/>22 seclusion-ps.pdf). OCR’s guidance stated that “[a]school district discriminates on the basis  
24 of disability in its use of restraint or seclusion by (1) unnecessarily treating students with  
25 disabilities differently from students without disabilities; (2) implementing policies,  
26 practices, procedures, or criteria that have an effect of discriminating against students on  
27  
28

1 the basis of disability or defeating or substantially impairing accomplishment of the  
2 objectives of the school district’s program or activity with respect to students with  
3 disabilities; or (3) denying the right to a free appropriate public education (FAPE).” *Id.* at  
4  
5 3. OCR also explained that the repeated use of restraint and seclusion on a student is not  
6 justified “where alternative methods also could prevent imminent danger to self or  
7 others.” *Id.* at 9.

8  
9 89. MSBSD has systemically violated Section 504 by disproportionately and  
10 improperly using restraint and seclusion as a disciplinary measure against the members  
11 of the Student Subclass, thereby excluding the students from participation and denying  
12 the benefits of a public school education.

13  
14 90. MSBSD’s disproportionate and unjustified use of restraint and seclusion as  
15 a disciplinary measure, instead of providing reasonable accommodations like PBIS,  
16 denied the members of the Student Subclass a “free appropriate public education” under  
17 Section 504 because it denied the students the services and supports that are designed to  
18 meet their needs as adequately as the needs of non-disabled students.

19  
20  
21 91. MSBSD’s disproportionate and improper use of restraint and seclusion on  
22 the members of the Student Subclass discriminates against students with disabilities,  
23 excludes them from participation in, and denies them the benefits of MSBSD’s education  
24 program, in violation of Section 504.

25  
26 **SECOND CLAIM FOR INJUNCTIVE RELIEF ON BEHALF OF STUDENT**  
27 **SUBCLASS AGAINST MSBSD – VIOLATION OF TITLE II OF AMERICANS**  
28 **WITH DISABILITIES ACT**

92. Plaintiffs repeat and incorporate by reference the allegations in each of the

1 preceding paragraphs.

2 93. Title II of the ADA applies to all services, programs, and activities of public  
3 entities, including public educational institutions. *See* 42 U.S.C. § 12131 *et seq.*  
4

5 94. During all relevant times, MSBSD has been a public entity covered by Title  
6 II of the ADA.

7 95. Under Title II of the ADA, “no qualified individual with a disability shall,  
8 by reason of such disability, be excluded from participation in or be denied the benefits  
9 of the services, programs, or activities of a public entity, or be subjected to discrimination  
10 by any such entity.” 42 U.S.C. § 12132; *see also* 28 C.F.R. § 35.130.  
11

12 96. Title II of the ADA prohibits a public entity from utilizing methods of  
13 administration that “have the effect of subjecting qualified individuals with disabilities to  
14 discrimination on the basis of disability.” 28 C.F.R. § 35.130(b)(3)(i).  
15

16 97. Title II of the ADA also prohibits a public entity from providing disabled  
17 individuals “with an aid, benefit, or service that is not as effective in affording equal  
18 opportunity to obtain the same result, to gain the same benefit, or to reach the same level  
19 of achievement as that provided to others.” 28 C.F.R. § 35.130(b)(1)(iii).  
20

21 98. Title II of the ADA requires a public entity to “make reasonable  
22 modifications in policies, practices, or procedures when the modifications are necessary  
23 to avoid discrimination on the basis of disability, unless the public entity can demonstrate  
24 that making the modifications would fundamentally alter the nature of the service,  
25 program, or activity.” 28 C.F.R. § 35.130(b)(7)(i).  
26

27 99. Title II of the ADA also requires a public entity to “administer services,  
28

1 programs, and activities in the most integrated setting appropriate to the needs of qualified  
2 individuals with disabilities.” 28 C.F.R. § 35.130(d).

3  
4 100. Plaintiff T.L. and each member of the Student Subclass is a “qualified  
5 individual with a disability” within the meaning of the ADA.

6 101. MSBSD’s disproportionate and improper use of restraint and seclusion as  
7 a disciplinary measure against the members of the Student Subclass violates Title II of  
8 the ADA in that it denies the students an equal opportunity to participate in and enjoy the  
9 benefits of the District’s services, programs, and activities by reason of their disabilities.  
10

11 102. MSBSD failed to provide the members of the Student Subclass with  
12 reasonable modifications, such as PBIS, to avoid discrimination in the use of restraint and  
13 seclusion on students with disabilities. Most, if not all, of the incidents of restraint and  
14 seclusion during the relevant time period could have been avoided if MSBSD had  
15 provided the members of the Student Subclass with reasonable modifications.  
16  
17

18 103. MSBSD’s disproportionate and improper use of restraint and seclusion as  
19 a disciplinary measure against the members of the Student Subclass denied students with  
20 identified disabilities an equal opportunity to obtain the same result, to gain the same  
21 benefit, or to reach the same level of achievement as that provided by the District to non-  
22 disabled students.  
23

24 104. MSBSD’s overuse of restraint and seclusion on members of the Student  
25 Subclass violates Title II of the ADA because it segregates students with disabilities from  
26 their classrooms and peers and fails to serve the students in the most integrated setting  
27 appropriate to their needs.  
28

1                   **THIRD CLAIM FOR INJUNCTIVE RELIEF ON BEHALF OF PARENT**  
2                   **SUBCLASS AGAINST MSBSD – VIOLATION OF AS 14.33.125(d)**

3           105. Plaintiffs repeat and incorporate by reference the allegations in each of the  
4 preceding paragraphs.

5           106. MSBSD has a pattern and practice of failing to provide parents and legal  
6 guardians with a timely written report of each incident of a restraint or seclusion as  
7 required by AS 14.33.125(d).

8           107. For example, in a letter dated May 11, 2023, the MSBSD’s Superintendent,  
9 Randy Trani, admitted that Parents did not receive a written report of T.L.’s seclusion  
10 incidents during the 2022–2023 school year “within a reasonable time period.”  
11 Furthermore, Parents still have not received a written report regarding the restraints and  
12 seclusions applied on T.L. on March 7, 2023.  
13  
14  
15

16           108. Plaintiffs allege upon information and belief that MSBSD has failed to  
17 provide numerous other parents and legal guardians with a timely written report following  
18 the restraint or seclusion of their child by District personnel. Many incidents of restraint  
19 and seclusion are not reported at all to a child’s parents. When a report is provided, it is  
20 often sent long after the incident.  
21

22                   **FOURTH CLAIM FOR DAMAGES ON BEHALF OF T.L.**  
23                   **INDIVIDUALLY AGAINST ALL DEFENDANTS – VIOLATION OF 42 U.S.C. §**  
24                   **1983**

25           109. Plaintiffs repeat and incorporate by reference the allegations in each of the  
26 preceding paragraphs.

27           110. The Fourth Amendment to the United States Constitution protects  
28

1 individuals against unreasonable seizures of their person. A seizure violates the Fourth  
2 Amendment if it is objectively unreasonable under the circumstances. *See, e.g., Doe v.*  
3 *Hawaii Dep't of Educ.*, 334 F.3d 906, 909 (9th Cir. 2003).  
4

5 111. The Fourth Amendment applies to students in the school environment. The  
6 excessive use of force by a public school official against a student constitutes an  
7 unreasonable seizure in violation of the Fourth Amendment. *See, e.g., Preschooler II v.*  
8 *Clark Cnty. Sch. Bd. of Trs.*, 479 F.3d 1175, 1180 (9th Cir. 2007).  
9

10 112. The Individual Defendants are “persons” subject to liability under 42  
11 U.S.C. § 1983.  
12

13 113. The Individual Defendants, while acting under color of state law and within  
14 the course and scope of their employment with MSBSD, used excessive force against  
15 plaintiff T.L. that was objectively unreasonable under the circumstances because (i)  
16 T.L.’s behavior did not pose an imminent danger of physical injury to anyone; (ii) less  
17 restrictive interventions would have been effective in mitigating any imminent danger  
18 posed by T.L.’s behavior; (iii) the Individual Defendants continued to restrain T.L. even  
19 after any danger of physical injury had ended; (iv) the restraints applied by the Individual  
20 Defendants substantially departed from accepted standards; and (v) the restraints applied  
21 by the Individual Defendants were painful and created a substantial risk of injury.  
22  
23

24 114. MSBSD is liable under 42 U.S.C. § 1983 because the unwritten customs  
25 and practices of the District and a District-wide failure to train its employees caused the  
26 Individual Defendants to violate T.L.’s Constitutional right to be free from unreasonable  
27 seizures.  
28



1           115. The data reported by MSBSD to DEED shows that the District does not use  
2 restraint and seclusion in *rare* circumstances where a student’s behavior poses imminent  
3 danger of serious physical harm to the student or others. Rather, MSBSD frequently uses  
4 these techniques to address noncompliant student behavior in the absence of any safety  
5 threat, and in response to misbehavior that the District should have anticipated and  
6 managed as part of educating students with emotional and behavioral needs.  
7

8  
9           116. MSBSD inadequately trains its employees on how to appropriately respond  
10 to the behavioral manifestations of students with disabilities and the use of appropriate  
11 crisis intervention, de-escalation, and restraint techniques. MSBSD’s inadequate training  
12 program actually caused the deprivation of T.L.’s Constitutional rights by the Individual  
13 Defendants.  
14

15           117. MSBSD is deliberately indifferent to the inadequate training of its  
16 employees. Based on the data reported to DEED, and the data contained in the written  
17 reports prepared in accordance with AS 14.33.125(d), MSBSD has actual or constructive  
18 notice that its inadequate training program is causing its employees to violate students’  
19 Constitutional rights.  
20  
21

22           118. As a direct and proximate result of the defendants’ violation of his  
23 Constitutional rights, Plaintiff T.L. suffered physical injury, emotional distress, mental  
24 anguish and suffering, and humiliation.  
25

26           **FIFTH CLAIM FOR DAMAGES ON BEHALF OF T.L. INDIVIDUALLY**  
27           **AGAINST ALL DEFENDANTS – VIOLATION OF AS 14.33.125**

28           119. Plaintiffs repeat and incorporate by reference the allegations in each of the

1 preceding paragraphs.

2 120. Defendants violated AS 14.33.125 by repeatedly restraining and secluding  
3 Plaintiff T.L. when (i) his behavior did not pose an imminent danger of physical injury to  
4 anyone; (ii) less restrictive interventions would have been effective in mitigating any  
5 imminent danger posed by T.L.'s behavior; (iii) the Individual Defendants continued to  
6 restrain and seclude T.L. even after any danger of physical injury had ended; (iv) the  
7 Individual Defendants restrained T.L. on his back; and (v) the Individual Defendants  
8 restrained T.L. using prohibited techniques under the Mandt System.  
9  
10

11 121. By using techniques that are not authorized under MSBSD's approved  
12 school disciplinary and safety program, or because their acts and omissions constitute  
13 gross negligence or intentional misconduct, the defendants are liable for civil damages  
14 resulting from their professional misconduct and gross deviation from standards of care.  
15

16 **SIXTH CLAIM FOR DAMAGES ON BEHALF OF T.L. INDIVIDUALLY**  
17 **AGAINST ALL DEFENDANTS – NEGLIGENCE**

18 122. Plaintiffs repeat and incorporate by reference the allegations in each of the  
19 preceding paragraphs.  
20

21 123. Defendants owed Plaintiff T.L. a duty of care to adequately supervise him  
22 at school and to keep him safe from danger and abuse while on school grounds.  
23

24 124. Alaska Statute 14.33.125 defines the standard of care for school personnel  
25 when restraining or secluding a student.

26 125. The Individual Defendants were negligent per se by restraining and  
27 secluding plaintiff T.L. in violation of the standard of care established under AS  
28

1 14.33.125.

2 126. Alternatively, the Individual Defendants failed to exercise reasonable care  
3 when restraining and secluding plaintiff T.L.  
4

5 1267. The Individual Defendants' negligent acts were a substantial factor in  
6 causing harm to plaintiff T.L., including physical injury, emotional distress, mental  
7 anguish and suffering, and humiliation.  
8

9 **SEVENTH CLAIM FOR DAMAGES ON BEHALF OF T.L.**  
10 **INDIVIDUALLY AGAINST ALL DEFENDANTS – BATTERY**

11 128. Plaintiffs repeat and incorporate by reference the allegations in each of the  
12 preceding paragraphs.

13 129. The Individual Defendants acted with the intent to touch Plaintiff T.L. in a  
14 harmful or offensive way.  
15

16 130. The Individual Defendants' actions resulted in a harmful or offensive  
17 touching of Plaintiff T.L.

18 131. Plaintiff T.L. did not consent or cause the Individual Defendants to  
19 reasonably believe that he consented to the harmful or offensive touching of his body.  
20

21 132. As a direct and proximate result of the Individual Defendants' actions,  
22 Plaintiff T.L. suffered physical injury, emotional distress, mental anguish and suffering,  
23 and humiliation.  
24

25 133. The Individual Defendants' conduct was committed within the course and  
26 scope of their employment with MSBSD.  
27  
28

1           **WHEREFORE**, the plaintiffs pray for the following relief:

2           (1) Certification of the above-defined subclasses;

3  
4           (2) A declaration and finding that MSBSD's disproportionate and unjustified  
5 use of restraint and seclusion on students with disabilities discriminated against the  
6 Student Subclass in violation of Section 504 and Title II of the ADA by (i) excluding  
7 them from participation in or denied them the benefits of the District's services, programs,  
8 or activities by reason of their disabilities; (ii) denying them an equal opportunity to  
9 participate in and benefit from MSBSD's education program; (iii) failing to provide  
10 reasonable modifications that would obviate or reduce the need for restraint and  
11 seclusion; and (iv) unnecessarily segregating the members of the Student Subclass,  
12 depriving them of the most integrated setting appropriate;

13  
14           (3) A declaration and finding that MSBSD has a pattern and practice of  
15 violating AS 14.33.120(b) and AS 14.33.125(d) by failing to provide the members of the  
16 Parent Subclass with a written report on the same day as each incident of a restraint or  
17 seclusion;  
18  
19

20           (4) A declaration and finding that the Individual Defendants unreasonably  
21 seized plaintiff T.L., in violation of the Fourth Amendment to the United States  
22 Constitution by applying excessive force and using restraint techniques that substantially  
23 departed from accepted standards;  
24

25           (5) An injunction requiring the immediate closure of all seclusion rooms in  
26 MSBSD and prohibiting the District and its employees from secluding students for any  
27 reason;  
28

1 (6) An injunction prohibiting MSBSD and its employees from applying a  
2 physical restraint unless a student's behavior poses an imminent danger of *serious*  
3 physical injury to the student or others;  
4

5 (7) An injunction prohibiting MSBSD and its employees from applying a  
6 physical restraint as a form of discipline or punishment; to force compliance with staff  
7 directions to a student; as a convenience to staff; or to move a student from one location  
8 to another, unless the failure to move that student or to prevent that student from leaving  
9 the classroom or other physical space will create an imminent danger of serious physical  
10 injury to that student or another person;  
11  
12

13 (8) An injunction prohibiting MSBSD and its employees from applying a  
14 physical restraint while placing students on their back or stomach; in a manner that  
15 restricts breathing; using any technique that is prohibited under the Mandt System; or  
16 continuing to apply a restraint after the student's behavior no longer poses an imminent  
17 danger of *serious* physical injury to the student or another person;  
18

19 (9) An injunction requiring MSBSD to provide a student's parents or legal  
20 guardians with a written notice containing the information required under AS  
21 14.33.125(d) on the same day as any incident of a restraint;  
22

23 (10) An injunction requiring MSBSD to convene a disabled student's 504 or IEP  
24 team within seven days of any restraint to determine whether any additional evaluations  
25 are necessary and whether to make any changes to the student's IEP, BIP, or 504 plan;  
26

27 (11) An injunction requiring MSBSD to regularly train all staff who have regular  
28 contact with students on the Mandt System or another evidence-based crisis intervention

1 training program selected by the District's governing body, with required annual  
2 certification and quarterly refresher training as recommended by the Mandt Training  
3 Curriculum;  
4

5 (12) A judgment against each of the defendants, jointly and severally, awarding  
6 plaintiff T.L. nominal damages;  
7

8 (13) A judgment against each of the defendants, jointly and severally, awarding  
9 plaintiff T.L. compensatory damages according to proof;

10 (14) An award of reasonable attorney's fees and costs to the plaintiffs pursuant  
11 to 42 U.S.C. § 1988 or other applicable laws;  
12

13 (15) For such other and further equitable relief as this Court may deem just under  
14 the circumstances; and

15 (16) All other proper relief.  
16

17 DATED this 4<sup>th</sup> day of December, 2023.

18 NORTHERN JUSTICE PROJECT, LLC  
19 Attorneys for Plaintiffs

20  
21 By: /s/ Goriune Dudukgian  
22 Goriune Dudukgian, ABA No. 0506051  
23 Nicholas Feronti, AK Bar No. 2106069  
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27  
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