

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AA, by and through her parents BB and CC; BB;
CC; DD, by and through her parents EE and FF;
EE; FF,

Plaintiffs,

-against-

CITY OF NEW YORK; NEW YORK CITY
DEPARTMENT OF EDUCATION; MOSHOLU
MONTEFIORE COMMUNITY CENTER;
CHILD DEVELOPMENT CENTER OF
MOSHOLU MONTEFIORE COMMUNITY
CENTER,

Defendants.

Case No. 25-752

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs AA, BB, CC, DD, EE, and FF, by and through their counsel, for their Complaint allege, upon personal knowledge as to themselves and information and belief as to other matters as follows:

PRELIMINARY STATEMENT

1. Plaintiffs AA and DD are two young girls who were subjected to a horrific, yearslong pattern of grooming and sexual abuse at the hands of a teacher at their afterschool program at P.S. 185 in Manhattan.¹

2. AA and DD are currently each nine years old and in fourth grade. The abuse occurred over the course of three years, when the girls were in first, second and third grade.

¹ Due to the sensitive nature of the facts of this case and AA and DD's infancy, Plaintiffs seek leave to proceed by pseudonym and file a motion to that effect herewith.

3. The abuser, Miles McNeal a.k.a. Myles McNeal, pulled AA and DD out of class, alone and with others, with astonishing frequency for years.

4. Defendants' employees allowed McNeal to pull the girls out of class, day in and day out.

5. McNeal isolated the girls and took them to rooms that should have been locked.

6. While there, McNeal groomed and abused the girls, including repeated skin-to-skin genital touching, photography and filming to produce child pornography, showing child pornography he made of other students at P.S. 185, other inappropriate touching including forcing the girls to straddle his lap and tickling them, regularly isolating the girls away from other adults, and violating appropriate student-teacher boundaries.

7. McNeal is currently facing criminal charges for this abuse.

8. Defendants failed to protect AA and DD and recklessly ignored the blatant abuse happening over the course of years. Their inaction was deliberate indifference.

9. McNeal's abuse was apparent as early as Fall 2021. Defendants had undeniable notice of his abuse in March 2023, when he was caught forcing DD (then in second grade) to straddle his lap in an unused classroom. Yet Defendants effectively ignored this: P.S. 185's Assistant Principal Meredith Flynn, filed a report with Defendant New York City Department of Education ("DOE"), but no one from DOE did anything, and Defendant Mosholu Montefiore Community Center's ("MMCC") program director, Porscha McNeill, imposed an entirely inconsequential one-day suspension, failed to inform any parents (including DD's) of what McNeal had done or that he had been suspended for forcing a student to sit on his lap, and did nothing to protect AA, DD, or any other student from further abuse by McNeal.

10. After his one-day suspension, McNeal returned to work and returned to abusing AA and DD frequently, escalating the severity of his abuse.

11. Defendants continued to permit McNeal access to abuse children. They even promoted him the following year—and gave him access to more children.

12. He continued to groom and abuse AA until she left the school for unrelated reasons in August 2022. He continued to groom and abuse DD until November 2023, when she disclosed some of what she experienced to her mother. Only then did Defendants finally fire McNeal.

13. Defendants enabled this abuse, allowing McNeal to rampantly isolate, groom, abuse, and exploit AA, DD, and, on information and belief, other children at P.S. 185, for two and a half school years, plus the intervening summers, before they did anything about it. It is repugnant just how many adults turned a blind eye to the blatant abuse occurring at P.S. 185. If Defendants and their employees had been doing their jobs—paying attention, following protocols and procedures, and using simple common sense—this abuse could have been stopped before it started. They did not do so. This abdication of responsibility over the children in Defendants' care is inexcusable. These two young girls and their parents bear the consequences of Defendants' inaction.

14. AA's and DD's lives—and their parents' lives—are forever damaged because of the extensive grooming and abuse. Even one instance of sexual abuse at any age is a life altering trauma. What AA and DD were subjected to is far worse than that. Between the ages of six to eight and seven to eight, respectively, the girls were subjected to a protracted pattern of grooming, mental abuse, inappropriate touching, and pornographic exploitation by an adult entrusted with their care.

15. The duration and severity of what these girls experienced is disastrous for them. The magnitude and longitude of the pattern of grooming and abuse will impact their entire futures. They have been robbed of half of their conscious childhood. The impact is incalculable. Defendants must be held accountable for failing to protect the students in their care.

JURISDICTION AND VENUE

16. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Plaintiffs allege violations of Title IX, 20 U.S.C. § 1681(a), *et seq.* Plaintiff further invokes this Court's supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over any and all State law claims and causes of action which derive from the same nucleus of operative facts and are part of the same case or controversy that give rise to the federally based claims and causes of action.

17. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391(b) because the events forming the basis of this complaint occurred in this district.

PARTIES

18. Plaintiff AA is currently nine years old, and a resident of Westchester County, New York. Her parents are BB and CC.

19. Plaintiffs BB and CC are the parents of AA, and are residents of Westchester County, New York.

20. Plaintiff DD is currently nine years old, and a resident of New York County, New York. Her parents are EE and FF.

21. Plaintiffs EE and FF are the parents of DD, and are residents of New York County, New York.

22. Defendant the City of New York is a municipal corporation organized pursuant to the laws of the State of New York.

23. Defendant New York City Department of Youth and Community Development (“DYCD”) is a mayoral agency of the City of New York.

24. Defendant New York City Department of Education (“DOE”) is a municipal corporation headquartered at 65 Court Street, Brooklyn, New York 11201. The DOE is a “separate legal entity from the City,” and is sued separately from the City. *Romero v. City of New York*, 839 F. Supp. 2d 588, 601 (E.D.N.Y. 2012) (collecting cases).

25. Defendants the City of New York (including the Department of Youth and Community Development) and the DOE are collectively referred to as the “Municipal Defendants.”

26. Defendant Mosholu Montefiore Community Center (“MMCC”) is a not-for-profit corporation incorporated in New York. Its principal place of business is 3450 DeKalb Avenue, Bronx, New York 10467.

27. Defendant Child Development Center of Mosholu Montefiore Community Center (“CDC of MMCC”) is an education corporation incorporated in New York. Its principal place of business is 3450 DeKalb Avenue, Bronx, New York 10467. CDC of MMCC is a sub-entity of MMCC.

28. Defendants MMCC and CDC of MMCC are collectively referred to as the “MMCC Defendants.”

JURY DEMAND

29. Plaintiff demands a trial by jury in this action.

FACTUAL ALLEGATIONS

30. During all relevant periods of time, AA and DD attended P.S. 185, a New York City Public School in Harlem operated by the DOE.

31. AA and DD are currently nine years old and in the fourth grade.

32. Until recently, Andrea Woodhouse-Spence (“Principal Spence”) was the principal of P.S. 185.

33. At all relevant times, Meredith Flynn was the assistant principal of P.S. 185.

34. At all relevant times, Monica Vargas a.k.a. Monika Vargas (“Vargas”) was the parent coordinator at P.S. 185.

35. At all relevant times, P.S. 185 offered an on-site after-school program for its students. This program was a Beacon program (“Beacon @185”).

36. Beacon programs are operated at public schools around the City.

37. Former New York City Mayor David Dinkins sparked the development of the Beacon program in 1991, in collaboration with his Department of Youth Services Commissioner Richard Murphy.

38. New York City Department of Youth and Community Development (“DYCD”) developed and structured the Beacon program.

39. Presently, NYCD maintains contracts with Community-Based Organizations (“CBOs”) throughout New York City to operate Beacons and other DYCD programs.

40. Until recently, Bronx-based CBO Defendant Mosholu Montefiore Community Center (“MMCC”) operated Beacon @ 185.

41. MMCC’s subsidiary, Defendant Child Development Center of MMCC (“CDC of MMCC”) maintained a contract with the City for its operation of several Beacon programs, including Beacon @ 185.

42. Beacon @ 185 operated on-site at DOE facilities at P.S. 185.

43. Beacon @ 185, like all Beacons, was free to eligible students.

44. Beacon @ 185 was the after-school program offered for kindergarten through grade five students at P.S. 185.

45. Beacon @ 185 was operated by MMCC employees who were also employed by the DOE.

46. Beacon @ 185 was led by Porscha McNeill and Vargas.

47. At all relevant times, Porscha McNeill was the director of Beacon @ 185.²

48. Porscha McNeill was also employed by the DOE as a substitute teacher.

49. Vargas, in addition to being employed by DOE as the P.S. 185 parent coordinator, also worked for MMCC.

50. Vargas helped run Beacon @ 185.

51. When new students started at P.S. 185, Vargas, in her capacity as parent coordinator, encouraged their families to sign them up for Beacon @ 185.

52. MMCC also assisted in administering a summer program at P.S. 185 called Summer Rising.

53. Summer Rising is a summer camp offered to public school students, jointly operated by the DYCD and DOE, in collaboration with CBOs like MMCC.

54. DOE teachers facilitate morning classes at Summer Rising, and CBOs like MMCC operate afternoon enrichment activities.

55. Students, subject to exceptions not applicable here, must participate in the afternoon enrichment activities if they participate in the DOE morning classes—they cannot participate in DOE classes only.

² Porscha McNeill has no known relation to Miles McNeal.

56. MMCC operated the afternoon enrichment activities for Summer Rising at P.S. 185 during the 2022 and 2023 summer programs.

57. Miles McNeal, a.k.a. Myles McNeal, was hired to work at Beacon @ 185 as a teacher in fall 2021.

58. Until his termination, he was also employed at Summer Rising as a teacher.

59. Unbeknownst to AA, DD, and their parents until much later, Vargas and McNeal are family: Vargas's daughter is married to McNeal's brother, James.

60. McNeal repeatedly sexually abused AA and DD over the course of multiple years at their after-school and summer programs.

The 2021-2022 School Year

61. In the 2021-2022 school year, the girls were in first grade at P.S. 185.

62. AA attended Beacon @ 185 during the 2021-2022 school year.

63. DD did not attend Beacon @ 185 during the 2021-2022 school year.

64. MMCC hired McNeal as a teacher for Beacon @ 185 that fall.

65. On information and belief, Vargas helped McNeal to get a job as a teacher at Beacon @ 185.

66. His job at MMCC was McNeal's first job after college.

67. McNeal began grooming AA in fall 2021, almost immediately after he started working at Beacon @ 185.

68. During the 2021-2022 school year, McNeal regularly took AA out of class and activities during the after-school program, sometimes alone and sometimes with other children.

69. AA's teachers and activity coordinators let McNeal take her out of class and activities.

70. McNeal brought AA and others to unlocked, empty rooms where no other adults or students were present, in violation of MMCC and DOE policy.

71. MMCC had a stated “rule of threes,” whereby no one teacher was permitted to be alone with any one student.

72. DOE required that unused classrooms be locked during both the school day and after-school hours.

73. Yet McNeal was permitted to repeatedly take AA out of class to unused rooms that should have been locked, and to be alone with her and other students without another adult present.

74. McNeal’s supervisors, Porscha McNeill and Vargas, both DOE employees, and both present daily during the Beacon @ 185 program, did nothing to stop McNeal.

75. Nor did any other Beacon @ 185 teacher, DOE staff member, or school security guard stop McNeal from repeatedly taking AA out of class alone and bringing her into empty, unlocked classrooms.

76. During this time, McNeal made AA feel special by telling her things like she was the best and his favorite student, and that no one understood the two of them.

77. McNeal took photos of AA during this time.

78. AA’s parents had not given consent to the DOE or to MMCC for AA to be photographed under any circumstances.

79. McNeal continued this behavior throughout the 2021-2022 school year.

Summer 2022

80. In the summer of 2022, MMCC operated a Summer Rising program at P.S. 185 jointly with the Municipal Defendants. *See infra* ¶¶ 363-72.

81. AA attended Summer Rising at P.S. 185 in the summer of 2022.

82. Like other students, AA was required to attend both the DOE-run morning sessions and the MMCC-run afternoon sessions.

83. McNeal remained employed by MMCC as a teacher at Summer Rising.

84. McNeal and one other co-teacher were responsible for AA's grade level: students who had just finished first grade.

85. McNeal continued to groom AA during the summer.

86. He employed the same means that he had the previous school year: taking AA out of class alone, bringing her to empty, unlocked classrooms, photographing her, and saying things to make her feel special and important.

87. During the summer of 2022, McNeal escalated to inappropriately touching AA.

88. Among other sexual activities, he made AA straddle his thighs (legs astride him, facing away from him) while he bounced his legs up and down underneath her.

89. DOE and MMCC employees permitted McNeal to take AA out of class alone during the summer.

Fall 2022

90. In the 2022-2023 school year, AA and DD were in the second grade at P.S. 185.

91. That year, both girls participated in Beacon @ 185.

92. Porscha McNeill continued to operate Beacon @ 185.

93. Vargas continued to operate Beacon @ 185.

94. That year, McNeal was assigned to be the sole teacher for the second-grade class.

95. All other grades had two co-teachers except for the second graders, who had McNeal as their sole teacher, despite MMCC's "rule of threes." *See supra* ¶ 71.

96. Yet Porscha McNeill and Vargas gave McNeal special treatment, permitting him to have his own class, despite the fact that it was only his second year working at Beacon @ 185.

97. In the fall of 2022, McNeal continued taking students including AA and DD out of class, sometimes alone and in groups, to unlocked, empty rooms in the school.

98. McNeal continued grooming AA and began grooming DD.

99. He gave AA, DD, and others candy.

100. He let them play with toys and his personal phone.

101. Other MMCC teachers and DOE employees Porscha McNeill and Vargas continued to permit this violation of policy.

102. In the fall of 2022, McNeal escalated his abuse of AA.

103. He continued inappropriately touching AA by making her sit on his lap.

104. He continued photographing AA without permission.

105. Around this time, McNeal began taking photographs of AA without clothing, including photographs of her shirtless and of her genitals. He made her take off her shirt or pull down her underwear to do so.

106. Porscha McNeill and Vargas permitted McNeal to abandon the rest of his class each time he took AA, DD, and others out of class alone or in groups. They and other personnel in the school were aware that McNeal was taking students out of class.

107. Beacon @ 185 used a walkie-talkie system; staff members had walkie-talkies and would radio each other if they needed assistance.

108. Because he was the sole teacher for the second graders, each time McNeal took AA, DD or others out of class to abuse them, he needed to request coverage for the rest of his class.

109. Each time he needed coverage for his class, McNeal would have needed to radio other staff members seeking coverage.

110. Other adults in the building would have heard McNeal radioing for coverage frequently so that he could take AA, DD, and others out of class to groom and abuse them.

111. Yet other adults in the building, including employees of Defendants, did nothing to stop McNeal from regularly taking AA, DD, and others out of class.

Winter 2022-2023

112. In the winter of 2022, McNeal continued to escalate his abuse of both girls.

113. McNeal continued to pull the girls out of class alone.

114. He escalated to touching AA's genitals and buttocks underneath her clothes, skin-to-skin.

115. He also began to engage in sexually abusive touching with DD, making her straddle his lap in the same manner as he had done with AA (legs astride his thighs, facing away from him while he bounced his legs underneath her).

116. He told DD things to make her feel special and important, grooming her just like he did with AA.

117. Other adults in the building, including Porscha McNeill, Vargas, and other employees of Defendants, permitted McNeal to regularly pull AA, DD, and others out of class alone.

March 2023 Incident – Defendants Receive Unequivocal Notice of McNeal's Abuse and Fail to Respond

118. In the spring of 2023, McNeal continued to groom and abuse AA and DD.

119. In March 2023, an incident occurred that provided further, unequivocal notice to all Defendants that McNeal was abusing students.

120. On March 20, 2023, at around 4:00 PM, a DOE teacher caught McNeal making DD straddle his lap in an unused classroom.

121. The DOE teacher reported this alarming incident to Assistant Principal Flynn, a DOE employee.

122. Flynn, in turn, reported this incident to Porscha McNeill.

123. Porscha McNeill went to the classroom.

124. The next day, Porscha McNeill told Flynn that she had asked McNeal to step out of the room.

125. Porscha McNeill told Flynn that she had suspended McNeal and that she had spoken to DD's parents.

126. Flynn did nothing further to address the situation: she did not call DD's parents herself to make them aware of what had transpired. She did not follow up with Porscha McNeill herself. She did not inquire into what Porscha McNeill had told DD's parents.

127. Flynn did nothing to make sure that McNeal never again had access to prey on DD or other young girls at P.S. 185.

128. Flynn did file an incident report with the DOE on March 21, 2023.

129. Porscha McNeill suspended McNeal for one day without pay.

130. Porscha McNeill falsely noted in his file that she informed DD's parents of the incident.

131. Porscha McNeill spoke to DD's father, but she deliberately obscured and distorted the nature of what had occurred.

132. Porscha McNeill told DD's father that *DD* was trying to sit on her teacher's lap and that they should instruct DD this was not ok.

133. Porscha McNeill concealed the fact that it was McNeal who had forced DD to sit on his lap.

134. She did not reveal the nature of the lap-sitting—that McNeal made DD straddle his thighs, facing away from him, while he bounced underneath her.

135. She did not reveal that McNeal had isolated DD from her class in an unused classroom, away from DD’s assigned class, where DD and McNeal were not supposed to be.

136. She did not reveal that McNeal regularly took DD and other girls out of class into otherwise unlocked, empty classrooms alone with him.

137. She did not reveal that McNeal had been disciplined for this incident.

138. Porscha McNeill conducted no further investigation and made no further report of the incident.

139. Porscha McNeill did not tell any other parents what had occurred.

140. No one informed AA’s parents.

141. The “discipline” Porscha McNeill imposed was entirely inconsequential: it had no effect on McNeal’s behavior and did not affect his access to AA and DD.

142. After McNeal returned from his one-day suspension, Defendants’ employees permitted him to remain the sole teacher for the second graders at Beacon @ 185.

143. They continued to allow McNeal allowed unfettered access to students.

144. Defendants allowed McNeal to continue to take AA, DD, and others out of class to unlocked, empty classrooms.

145. McNeal continued to abuse AA, DD, and, on information and belief, others.

146. Other MMCC and DOE employees on the premises continued to look the other way.

147. DOE did not investigate.

148. DYCD did not investigate.

149. The MMCC Defendants' response violated DOE and DYCD policy governing CBO operations of Beacons.

150. Under DOE and DYCD policy, upon learning of this inappropriate sexual conduct committed by McNeal, MMCC Defendants were required to (1) immediately notify both the principal and the school safety agent; (2) report to DOE within 24 hours; (3) report to DYCD via email, phone, or the DYCD Connect system within 24 hours; (4) additionally report to DYCD as soon as possible given the sexual nature of McNeal's contact with DD; (5) submit a DYCD Incident Report in the DYCD Connect system; (6) report to the Department of Health and Mental Hygiene ("DOHMH") within 24 hours; and (7) report to the NYPD.

151. MMCC Defendants did none of these things.

152. Principal Spence was required to report this incident via email and/or the DOE's Online Occurrence Reporting System ("OORS") within 24 hours.

153. Principal Spence did not do so.

154. As a result, McNeal continued to abuse both AA and DD.

Spring 2023

155. After his one-day suspension, McNeal's abuse of AA and DD escalated further throughout the spring of 2023.

156. McNeal abused AA with even greater frequency.

157. The nature of his abuse of AA escalated.

158. He regularly took her out of class alone.

159. He continued to touch her unclothed genitals and buttocks.

160. While he molested AA, he gave her his phone so she could play games and watch videos—things she wasn't allowed to do at home.

161. McNeal continued to photograph and film AA, including documenting himself touching her genitals.

162. He made AA pose in pornographic and sexualized positions while he photographed and filmed her.

163. McNeal showed AA pornography he had made (both photos and videos) of other students in the school. He showed AA photos of other girls' genitalia, telling AA these were photos and videos of other girls at P.S. 185.

164. AA saw McNeal walking in the halls with other P.S. 185 students. She grew frightened that he was abusing those students as well.

165. McNeal threatened AA. He told her that he would kill her if she disclosed the abuse.

166. McNeal also bargained with AA, telling her that he would not abuse other children at P.S. 185 if AA stayed quiet.

167. AA was terrified. She did not disclose the abuse to her parents.

168. AA did ask her parents, BB and CC, to pick her up earlier from Beacon @ 185. However, when her parents came to pick her up, AA took a long time to come downstairs. Many times, McNeal would bring her down himself. McNeal's abuse did not cease.

169. AA began to develop headaches towards the end of the school day, as after-school hours approached.

170. McNeal continued to abuse DD during the spring of 2023 as well.

171. He regularly took DD out of class alone.

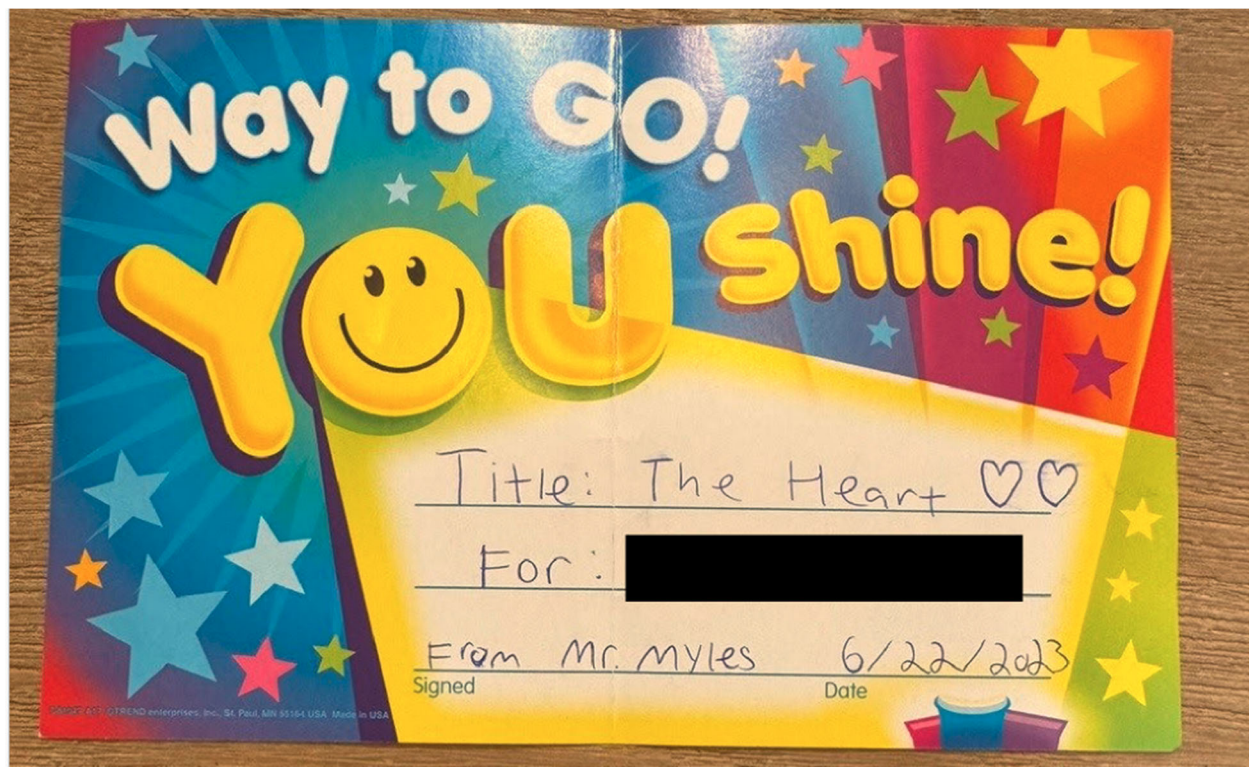
172. He forced DD to straddle his lap, bouncing his legs up and down underneath her.

173. McNeal also took AA and DD out of class together.

174. McNeal photographed AA and DD together, instructing them to lie face down on the floor while he took pictures “of their backs.”

175. As they had throughout this year and the previous year, other adults in the building, including Porscha McNeill, Vargas, and other employees of Defendants, continued to permit McNeal to regularly pull AA, DD, and others out of class alone and abuse them.

176. At the end of second grade, McNeal presented AA with the following certificate:



Summer 2023

177. In the summer of 2023, both girls participated in Summer Rising.

178. McNeal again worked at the Summer Rising program at P.S. 185.

179. Even though he was not the assigned teacher for their grade level, Defendants continued to allow McNeal to take AA and DD out of class alone and abuse them throughout the summer.

180. Other adults in the building, including Porscha McNeill, Vargas, and other employees of Defendants, permitted McNeal to regularly pull AA, DD, and others out of class alone.

Fall 2023

181. In fall 2023, the girls entered third grade.

182. Before the start of the school year, AA's family moved out of New York City for reasons unrelated to her abuse at P.S. 185. AA's parents still did not know about the abuse. AA thus no longer attended P.S. 185 and no longer participated in Beacon @ 185.

183. That fall, Defendants promoted McNeal to photography teacher for the entire Beacon @ 185 program.

184. This promotion gave him access to more students from other grade levels, permitted him to move more easily between classrooms. The promotion also gave him access to camera equipment and cover to take photos of students without question.

185. McNeal continued to take DD out of class alone and sexually abuse her during the fall of 2023.

186. Like many child victims of sexual abuse, DD has struggled to disclose exactly what she experienced with McNeal during this time. DD is currently in active trauma-focused mental health treatment that is expected to both help her verbalize what happened as well as to try to treat the damage caused. At the very least, over the course of the fall, McNeal

inappropriately touched DD, photographed her, and violated appropriate student-teacher boundaries. Further details are still being revealed by DD.

187. McNeal asked DD to wear particular outfits to school so he could photograph her.

188. DD's assigned teacher at Beacon @ 185, Mr. Daniel,³ permitted McNeal to take DD out of class regularly. McNeal frequently came to DD's classroom, said that he needed DD, and Mr. Daniel would let McNeal take DD out of class.

189. During this time, DD started exhibiting unusual behaviors at home, exhibiting interest for the first time in a book that explains sex to children, and miming sex and porn acts in a way that was disturbing to her parents.

190. Vargas knew that other teachers let McNeal take AA and DD out of class alone and with others.

191. Over the course of fall 2023, Porscha McNeill continued to enable McNeal's abuse. Despite knowing about McNeal's past abuse of DD in March 2023, she continued to ignore additional warning signs, and impose ineffective supervision of Beacon @ 185 staff.

192. For instance, at some point in fall 2023, Porscha McNeill noticed McNeal was away from his assigned students and loitering around DD's class. Porscha McNeill reminded Beacon @ 185 staff generally to not be away from their assigned group but took no further action to protect students.

193. On information and belief, throughout this entire time, from the beginning of his employment at Beacon @ 185 in fall 2021, Vargas facilitated McNeal's grooming and abuse of AA and DD.

³ Students and their parents referred to Beacon @ 185 teachers by their first names.

194. Under the guise of her role as social-emotional learning (“SEL”) instructor, Vargas used her position of authority to interrogate students about particularly traumatic or emotionally charged topics in their lives.

195. Vargas then fed this information to McNeal, her son-in-law’s brother, to facilitate his grooming.

196. For example, at one point in or around October 2023, DD’s mother, FF, arrived to pick DD up from Beacon @ 185.

197. Vargas said over the walkie talkie that she was with DD and needed ten more minutes with her.

198. Shortly thereafter, DD ran downstairs to the pick-up point to meet her mother, crying. Vargas followed DD downstairs, remarking that it was wonderful that DD was engaging with her feelings.

199. Vargas told DD’s mother, FF, that DD had confided that she missed the family cat, who had died several months prior.

200. Shortly thereafter, McNeal told DD that he, too, had a cat who had died, and that he, too, was sad about it. Vargas fed McNeal this information about DD, and McNeal used it to try to gain her trust.

201. This incident was characteristic of Vargas’s attempts to get close to particular students and feed information about them back to McNeal. McNeal then used that information to gain students’ trust, facilitating his grooming.

202. Additionally, Vargas led meditation classes in her capacity as SEL facilitator, and let McNeal come into class and observe the students meditating—while the students sat or lay on the floor with their eyes closed.

November 2023 Incident

203. On November 20, 2023, McNeal again took DD out of class alone during Beacon @ 185. Defendants' employees permitted him to do so, yet again.

204. This time, he took DD to an empty, unlocked room and closed the door.

205. He talked with DD about his "special relationship" with AA.

206. He then took DD to the library, where he played hide and seek with her.

207. When he found her, he tickled her on her lower abdomen.

208. During this time, if DD looked towards the door, McNeal told her that they were allowed to be there.

209. DD's mother, FF, arrived to pick DD up from Beacon @ 185 that evening. When she arrived at pickup, DD was in the library alone with McNeal.

210. The staff member facilitating pick-up made repeated calls over the walkie-talkie for DD to come down to meet her mother.

211. Eventually, another teacher responded over the walkie-talkie, saying they saw DD with McNeal.

212. The staff member facilitating pick-up appeared alarmed and said that DD was not supposed to be alone with McNeal.

213. DD's mother heard this exchange and became concerned—especially when DD's Beacon teacher brought down her coat and backpack without DD.

214. McNeal himself eventually brought DD down to meet her mother.

215. Outside the school building, DD's mother asked her whether she had been alone with McNeal.

216. DD relayed some details of what had just transpired and what McNeal had done with her and other students, including AA.

November 2023 – Defendants Finally Fire McNeal

217. On the evening of November 20, 2023, DD’s mother emailed Porscha McNeill, Vargas, and P.S. 185 Principal Andrea Woodhouse-Spence.

218. In this email, DD’s mother advised that DD had been alone with McNeal and that McNeal had divulged that he had a relationship with AA.

219. She wrote: “Miles told [DD] in this private conversation this evening that [AA] and he had grown close in second grade, to the point where she would do whatever he told her to do. And that he took pictures ‘of her back.’ And he began to feel really bad and he wanted to tell [DD] that he was sorry.”

220. In this email DD’s mother explained that McNeal had also photographed DD, and that “he asked her to wear her school jumper to school so he could take a picture of her, so he could remember her.”

221. The next day, DD disclosed to her mother that McNeal played hide and seek with her in the library the previous day and tickled her when he found her.

222. DD’s mother emailed Porscha McNeill again, adding this piece of information.

223. DD’s mother wrote: “[DD] told me this morning that Miles played hide and seek with her yesterday when they were alone (in the library?) and tickled her when he found her. She doesn’t want to return to after-school if he’s going to be there.”

224. DD’s mother also told Porscha McNeill, Principal Spence, and others, that DD said McNeal took other students out of class alone, including AA and two other students.

225. Again, Principal Spence was copied on this email thread. So was MMCC supervisor Shavajah Ward (whom Porscha McNeill had copied on the email thread).

226. DD later disclosed more of the abuse that she experienced, which is detailed *supra*. But at the time she sent these emails, this was all that DD's mother knew of what had happened to DD.

227. Porscha McNeill responded stating that she would be suspending McNeal and that she would conduct an investigation, and later told DD's mother in person that she was firing McNeal.

228. McNeal was fired on November 22, 2023.

229. Porscha McNeill later told DD's parents that when she met with McNeal to fire him, he steadfastly denied any wrongdoing until Porscha McNeill mentioned that she "knew [AA]'s secret"—referring to the fact that she knew McNeal had told DD that he had had a relationship with AA.

230. At this, McNeal fell silent.

231. By proceeding in this way, Porscha McNeill effectively put McNeal on notice that an investigation into his conduct with AA could be forthcoming and provided him an opportunity to dispose of pornography in his possession and otherwise conceal evidence of the extent of his abuse of AA, DD, and other students at P.S. 185.

232. Had she, Vargas, or Principal Spence reported the abuse to the NYPD, this risk would have been avoided.

233. Vargas also sought to be as involved in the process of McNeal's termination as possible, rendering her able to tip him off to upcoming investigations as best she could.

234. On November 27, 2023, Porscha McNeill emailed DD's parents advising them that McNeal had been terminated as a result of the abuse DD's parents had identified.

235. Principal Spence, Monika Vargas, Porscha McNeill, and Shavajah Ward were all copied on this email exchange.

236. Principal Spence did not reply.

237. No one reported McNeal's termination to DOE or DYCD.

238. No one told other Beacon @ 185 parents that McNeal had been terminated at all, or that he had been terminated for taking DD out of class alone to unused rooms and inappropriately touching her, or for having an inappropriate relationship with AA.

239. No one informed the police what DD had disclosed or that McNeal had been terminated, or the reasons for his termination.

240. Porscha McNeill did not communicate with AA's parents, despite telling McNeal when firing him that she "knew AA's secret," and despite DD's mother's emails explaining what McNeal had told DD of his relationship with AA that was so "close" that AA "would do whatever he told her to do," and that he had taken AA out of class alone on multiple occasions.

241. At this time, Principal Spence did not communicate with AA's parents or DD's parents, despite being informed of McNeal's termination and the reasons behind it. Principal Spence did not inquire about the girls' wellbeing.

242. On November 28, 2023, Porscha McNeill and Vargas met with DD's parents in Vargas's parent coordinator office to explain that McNeal had been terminated.

243. At this meeting, Porscha McNeill provided the details of her conversation with McNeal when she fired him.

244. Porscha McNeill lied to DD's parents, telling them that prior to November 20, MMCC Defendants' employees had no inkling that McNeal had been taking students out of class alone.

245. This statement is demonstrably false: Assistant Principal Flynn reported to Porscha McNeill back in March 2023 that McNeal had been caught with DD in an unused classroom, forcing her to straddle his lap, and Porscha McNeill had suspended McNeal for one day as a result.

246. DD's mother pushed back, telling Porscha McNeill that the staff member running pick-up on November 20 had expressed alarm at the idea that DD was seen with McNeal.

247. Porscha McNeill then admitted that the previous week, she had noticed McNeal away from his assigned group—and loitering around DD's group—which prompted her to remind staff to stay with their groups. She admitted that she took no other action.

248. At this meeting, Porscha McNeill and Vargas continued to conceal the March 2023 lap sitting incident, of which DD's parents were still unaware.

249. Vargas said words to the effect that McNeal would now get “the help he needed.”

250. After the November 28, 2023 meeting, neither Porscha McNeill nor Vargas, nor any other of Defendants' employees notified other Beacon @ 185 parents about McNeal's termination or the circumstances surrounding it.

251. None of Defendants' employees notified AA's parents of McNeal's termination, despite the fact that DD had named AA specifically as another child McNeal may have abused, with whom he had a particularly close relationship—a relationship he was purportedly “sorry” about.

252. At no point during this meeting, or at any other point, did any of Defendants' employee, including Vargas, inform DD's parents, or any other parent, of Vargas's familial relationship with McNeal.

253. Defendants' employees concealed Vargas and McNeal's relationship from the police as well.

254. On November 30, 2023, DD's father, EE, called the parents of other children that DD had said McNeal took out of class alone.

255. DD's father told the parents that McNeal, a Beacon @ 185 teacher, had been fired after being found inappropriately touching DD and taking her out of class alone.

256. Among the parents DD's father called were AA's parents.

257. DD's father told AA's parents that McNeal had specifically mentioned his relationship with AA to DD.

258. After speaking with DD's father, AA's parents spoke with AA.

259. AA disclosed the abuse to her parents. She told them about the grooming and mental abuse she experienced, the years of inappropriate touching, photography, exposure to pornography of other children, and sexual abuse, including repeatedly touching her genitalia.

260. AA showed her mother the pornographic positions McNeal would make her pose in when he photographed and filmed her.

261. AA's parents immediately called the police.

December 2023-January 2024 – Criminal Investigation

262. The New York City Police Department ("NYPD") Special Victims Unit ("SVU") began investigating after receiving the report of AA's abuse.

263. AA and DD provided forensic interviews, including interviews to Safe Horizon, a victims' services organization.

264. On December 6, 2023, SVU Detective Caceres visited P.S. 185.

265. At this time, very little had changed at P.S. 185 in the weeks since DD's disclosure: although McNeal had been fired, MMCC continued to operate Beacon @ 185, Porscha McNeill and Vargas continued to run Beacon @ 185, Vargas remained the P.S. 185 Parent Coordinator, and Principal Spence and Assistant Principal Flynn were still in charge at P.S. 185.

266. Other parents—besides the parents DD's father called—had not been informed of McNeal's termination or the reasons behind it.

267. At no point since DD's mother's November 20 emails had Principal Spence or Assistant Principal Flynn spoken to AA's or DD's parents about the abuse.

268. As part of her investigation, Detective Caceres learned that there had been no report filed for the November 20 incident where McNeal isolated and inappropriately touched DD, no report of DD's mother's subsequent emails to Porscha McNeill and other MMCC and P.S. 185 leaders, and no report of McNeal's termination.

269. On information and belief, Detective Caceres admonished Principal Spence for not reporting DD's mother's November 20th email.

270. That same day, Principal Spence called DD's father. She admitted to ignoring the family's email messages. She claimed she had received the emails but did not read them—after seeing one email where DD's mother thanked Porscha McNeill, Principal Spence said she assumed the matter was resolved.

271. This was notwithstanding the fact that DD's mother's follow-up email contained alarming content, including that McNeal had tickled DD when they were alone in the library playing hide and seek.

272. That same day, MMCC staff member Shonte Armstrong filed a belated incident report with DYCD regarding the November 20 incident.

273. This report was only filed after Detective Caceres's visit where she admonished MMCC for not reporting.

274. In this report, MMCC admitted to never reporting McNeal's termination or the circumstances surrounding it, including DD's mother's November 20 and 21 emails about McNeal isolating and inappropriately touching DD and McNeal's concerning statements to DD about his relationship with AA.

275. This report admitted that MMCC was only reporting McNeal's termination to DYCD now because Detective Caceres "came to the school and wanted to know if a report was submitted."

276. The report stated that "[o]n 11/20/23, the program director received an email from the mother of [DD] concerning her daughter being alone with the photography instructor. In the email, mom states that [DD] confirmed that there was no inappropriate touching, language or abusive behavior. She further mentions that the instructor told [DD] he had taken pictures of a former student who is [DD's] friend and that he took pictures of her back. The instructor told [DD] to wear her school jumper so he could take her photos as well. Mom was concerned because of reports she had read on AI distortions of children's images online. The staff was immediately suspended."

277. This belated report omitted a number of crucial details. MMCC deliberately attempted to conceal the extent of its prior notice of McNeal’s abusive behavior.

278. The report failed to mention that DD’s mother had stated that McNeal admitted to growing so “close” to AA “to the point where she would do whatever he told her to do.”

279. The report omitted that, on November 21, DD’s mother alerted MMCC and DOE that there *had* been inappropriate touching: that McNeal played hide and seek alone with DD in an unused room, tickling her when she found her.

280. The report omitted that MMCC knew of McNeal’s proclivities for isolating and inappropriately touching children—given that he was caught in March 2023 forcing DD to sit on his lap, and that Porscha McNeill was informed.

281. The report stated that Detective Caceres also called Porscha McNeill on December 1, 2023, seeking more information about McNeal.

282. The report checks a box indicating that the school’s principal, Principal Spence, was notified of the incident.

283. It was also only law enforcement that informed AA’s and DD’s parents about McNeal’s March 2023 suspension for making DD straddle his lap—a fact that Vargas, Porscha McNeill, Principal Spence, and Assistant Principal Flynn had still not revealed to the parents.

284. Throughout December 2023 and January 2024, SVU investigated McNeal.

285. DD’s mental health deteriorated during this time: she had increasing difficulty getting dressed for school; she confessed to her mother that she felt guilty about everyday interactions with friends and family; on several occasions she began to speak about McNeal, but then shut down; she experienced vaginitis symptoms; she talked about suicide during this time.

286. DD became particularly distressed when she saw Beacon @ 185 personnel at school. Although her parents had pulled her out of the Beacon program, Porscha McNeill and other Beacon @ 185 teachers continued to attempt interaction with DD in the hallways of P.S. 185.

287. Even after DD's parents had requested that Beacon @ 185 staff have no contact with DD, Porscha McNeill appeared as a DOE substitute teacher in DD's third grade class.

288. DD's mother raised her concerns in person to Principal Spence on January 5, 2024, emphasizing that she did not want her daughter to have contact with *any* Beacon @ 185 personnel, including Porscha McNeill.

289. Principal Spence's proposed solution—that she would arrange for DD to be removed from the classroom and taken to Vargas's office when Porscha McNeill was the only available substitute teacher, was patently unworkable.

290. DD's parents began to try to transfer DD to a new school.

291. In their efforts to do so, DD's parents spoke to Patricia Lysius, DOE District 3 Family Support Coordinator, several times in January 2024.

292. During those conversations, DD's mother told Lysius what she knew, up until that point, of the abuse DD had experienced, McNeal's abuse of AA, and McNeal's subsequent termination.

293. On January 10, 2024 Lysius informed DD's parents that, under the proper DOE reporting protocol, Principal Spence should have reported DD's mother's November 20, 2023 emails about McNeal's inappropriate behavior with DD and her suspicions of his inappropriate behavior with AA.

294. Under proper protocol, Lysius said, Principal Spence should have informed the DOE Office of Special Investigation (“OSI”), which would then involve SVU.

295. Yet, Principal Spence did not follow this protocol.

296. Lysius told DD’s parents that, by January 2024, three entities were investigating the circumstances that gave rise to and enabled McNeal’s abuse: OSI, the Special Commissioner of Investigation for the New York City School District (“SCI”), and the Borough Command Officer.

297. DD was permitted to transfer schools and enrolled in a new school on February 1, 2024.

February 2024 – McNeal is Arrested and Criminally Charged

298. On February 1, 2024, McNeal was arrested at his home in Yonkers.

299. Police seized 52 devices from his home upon his arrest.

300. After his arraignment on February 2, 2024, McNeal was sent to Rikers Island.

301. He was later released on bail on February 21, 2024.

302. McNeal was charged with three crimes stemming from his sexual abuse of AA: Course of Sexual Conduct Against a Child in the Second Degree, NYPL § 130.80(1)(a); Sexual Abuse in the First Degree, NYPL § 130.65(3); and Endangering the Welfare of a Child, NYPL § 260.10(1).

303. The same day McNeal was arraigned, AA’s mother, CC, discovered from social media that McNeal and Vargas were related; Vargas’s daughter is married to McNeal’s brother.

304. CC relayed this information to the Assistant District Attorney handling the case, and to DD’s parents. DD’s mother, FF, in turn informed Lysius, DOE District 3 Deputy Superintendent Mariela Graham, and Nyeema Byrnes, Director of Enrollment NYC Public

Schools Office of Student Enrollment (Manhattan Welcome Center), of Vargas and McNeal's relationship.

305. Graham thanked DD's mother for providing that information and told her she was alerting the "relevant parties," and that they would "follow DOE protocol."

306. On information and belief, a second DOE investigation has been opened into Vargas's conduct.

307. On the same day of McNeal's arrest, February 1, MMCC for the first time sent out a letter to some Beacon @ 185 parents informing them of McNeal's arrest.

308. The letter was not given to all parents.

309. Nowhere did the letter inform parents what McNeal's position was at Beacon @ 185, which children he had contact with at Beacon @ 185, how long he had worked with MMCC, or that he was accused of making child pornography in addition to sexually abusing AA.

310. On February 2, over two months after McNeal's abuse came to light and he was terminated, Principal Spence finally sent a letter to all P.S. 185 students and parents notifying them of McNeal's termination and arrest.

311. She did so obliquely, leaving out many important details.

312. She wrote that "a former employee of the Beacon MMCC has recently been arrested in connection with allegations regarding sexual abuse." Her letter advised that "the former employee" worked at Beacon @ 185 from October 2021 to November 2023, and that he "has not entered the building since the allegation was reported." The letter contained no other information—not McNeal's name, not the students whom he taught or who may have had contact with him, and no discussion of the fact that he photographed students or took multiple

students out of class alone, or even that the abuse had been perpetrated on school grounds, during Beacon and Summer Rising programming.

313. On February 5, 2024, Kamar Samuels, Community Superintendent of District 3, notified parents that Principal Spence was removed from her position at P.S. 185. D3 Deputy Superintendent Mariela Graham was appointed interim acting principal.

314. On February 6, 2024, Samuels notified parents that Vargas and Porscha McNeill were “no longer at P.S. 185.”

315. On February 7, 2024, DD’s mother had two phone calls, one with Samuels, and one with Lysius.

316. Samuels called DD’s mother to thank her for informing his office about Vargas and her relationship to McNeal.

317. Lysius called DD’s mother later, and told her that her February 2, 2024 email alerting the DOE to Vargas’s relationship to McNeal blew open the doors between the DYCD and the DOE.

318. On February 8, 2024, P.S. 185 hosted a town hall meeting for parents. Samuels moderated the town hall. Speakers included: Mariela Graham, now Acting Interim Principal of P.S. 185; Mark Rampersant, Chief of Safety and Prevention Partnerships, NYC Public Schools (DOE); Susan Haskell, Deputy Commissioner for Youth Services at DYCD; Assistant District Attorney Samantha LiTrenta; Detective Caceres; MMCC CEO Rita Santelia; MMCC Director of Youth Engagement Tashan Dawkins; and MMCC Board Member Roy A. Esnard.

319. Chief of Safety Rampersant told P.S. 185 parents at the Town Hall meeting that “after-school programs [are] an extension of the academic day. While the principals are not running the after-school program, they are in lockstep with the providers providing these

services. There should be constant communication on a regular and daily basis, especially when you start the program.”

320. Rampersant also stated that “the responsibility for the safety and security of our schools is a collective responsibility of all the adults in the building.”

321. Deputy Commissioner Haskell told parents that DYCD had a “robust set of policies and practices to support CBOs” which began at “the point of contracting.” She stated that the City has a “responsibility determination,” that there are a “rigorous set of safety and program standards” CBOs are subject to, and that “all programs have to follow these rules” and are “monitored for adherence to that. In addition, DYCD has policies and procedures for monitoring projects, including background clearances, staff training, and staff qualifications.”

322. MMCC Defendants’ employees repeatedly lied to parents during this town hall.

323. MMCC Defendants’ employees told parents that they could not identify which students McNeal had had contact with, since he had no assigned classes. Yet the 2022-23 Beacon schedule indicates that McNeal was the sole teacher responsible for the second graders that year.

324. Esnard told parents that “the moment” MMCC had “any suspicions” of McNeal, they suspended him.

325. This statement concealed that MMCC employee Porscha McNeill had suspended McNeal for forcing DD to sit on his lap in March 2023, or that Assistant Principal Flynn had filed a report to this effect with the DOE.

326. Esnard lied to parents about the reason for McNeal’s termination on November 22, 2023. He told parents that McNeal was terminated for his failure to follow rules on being alone with students, and that MMCC “got a bad vibe” from him.

327. Esnard told parents that, once McNeal was suspended, MMCC asked other staff members, “is this suspicion something that we’re really picking up on, and they said yes.”

328. These statements concealed that DD’s mother had emailed MMCC employees detailing, among other things, that McNeal had isolated DD in unused classrooms, requested that she wear certain outfits to school so he could photograph her, and had inappropriately touched her.

329. These statements also concealed that DD’s mother had told MMCC employees that McNeal had an inappropriate relationship with AA.

330. On February 16, 2024, a week after this town hall, DYCD suspended MMCC as the Beacon provider at P.S. 185.

331. DYCD sent out an email to P.S. 185 parents alerting them that MMCC was no longer the CBO operating Beacon @ 185, and that a new provider would be replacing MMCC.

Notices of Claim

332. Plaintiffs filed notices of claim against the City with the New York City Comptroller’s Office on April 30, 2024.

333. Plaintiffs filed notices of claim against the DOE with the New York City Comptroller’s Office and the New York City Law Department on April 30, 2024.

334. All notices of claim were transmitted by personal service within 90 days of the date of Miles McNeal’s arrest, pursuant to Gen. Mun. L. § 50-e and N.Y. Educ. L. § 3813.

335. Plaintiffs’ counsel received notice dated May 8, 2024 from the Office of the Comptroller that all Plaintiffs’ claims were disallowed because they were not filed within 90 days from the date of the occurrence.

336. On November 20, 2024, Justice Jeanine R. Johnson, Supreme Court of the State of New York, New York County, entered an order granting Plaintiffs’ application for leave to serve late Notices of Claim and deemed the April 30, 2024 Notices of Claim timely filed *nunc pro tunc*, pursuant to Gen. Mun. L. § 590(e)(5).

MMCC’s Relationship with the DOE and DYCD

337. MMCC and the CDC of MMCC (together, the “MMCC Defendants”) operated Beacon @ 185 and Summer Rising collaboratively with the City, via the DOE and the DYCD (the DOE and the City are together the “Municipal Defendants”).

338. The Municipal Defendants are intertwined with and exert exceptional control and authority over the CBOs that operate Beacon @ 185 and Summer Rising, including the MMCC Defendants.

339. Here, the MMCC Defendants and Municipal Defendants are particularly intertwined because the two leaders of Beacon @ 185, Porscha McNeill and Vargas, are also DOE employees.

340. CBO employees must go through DOE and DYCD clearance processes, including fingerprinting and background checks, before they can work at Beacons or Summer Rising programs.

341. CBOs operating Beacons and Summer Rising programs must comply with detailed DOE and DYCD incident reporting policies. Certain incidents, including inappropriate sexual contact, must be reported within 24 hours. CBOs must maintain records of these reports, and the DOE must enter CBO incidents in its own system.

342. DOE and DYCD documents refer to Beacons and Summer Rising as being “co-designed” and operated “collaboratively” between CBOs and the DOE and DYCD.

343. CBOs are required to have periodic collaborative planning sessions with their DOE host schools.

344. CBOs are subject to inspections by the Office of Children and Family Services (“OCFS”).

345. DOE and DYCD issue program operations guidebooks for Beacons and Summer Rising programs.

Beacons

346. To enroll in Beacon @ 185, DD’s parents had to fill out a DYCD Participant Intake form that said: “Welcome to [DYCD].”

347. Beacon @ 185 was monitored by the same security personnel that were present at P.S. 185 during the academic day.

348. The office for Beacon @ 185 was directly adjacent to the security officer’s desk.

349. P.S. 185 leadership, faculty, and staff were regularly present during Beacon @ 185 operating hours.

350. P.S. 185 after-school activities, such as sports and clubs, were ongoing at P.S. 185 at the same time as Beacon @ 185 was operating.

351. Beacons are programs developed by and structured by Municipal Defendants. A CBO must contract with the City to operate a Beacon program and must adhere to strict City requirements in terms of enrollment levels and programming. DYCD has extensive authority over what types of programming CBOs provide at Beacons. CBOs must commit to providing programming in five core areas (education, community building/leadership, health, employment and financial security, and recreation/enrichment) and provide three types of activities to their communities (drop-in, planned, and community events). CBOs must submit a schedule of

activities that they will provide to the community as part of their proposal, identify which core area the activity belongs, describe skills to be gained by each activity, and hours in which the activity will be offered.

352. The DYCD selects CBOs to operate Beacons around the City and maintains contracts with those CBOs.

353. Available Beacons are listed on the DYCD's website, which also provides contact information for the CBOs, eligibility information for students, and notes whether a particular CBO is hiring.

354. The City pays for the cost of extended use permits for Beacons (and other DYCD programs like COMPASS and SONYC) to use DOE facilities after school hours; it does not pay for other after-school programs' permits.

355. CBOs must use City tracking software to document that they are meeting DYCD enrollment targets for Beacons.

356. DOE policies make clear that the school's assistant principal is responsible for oversight of the CBO operating a Beacon.

357. CBOs must use a DYCD system to register and track Beacon participants and enter consent forms.

358. CBOs are required to comply with DYCD requirements to protect confidential student information.

359. DOE instructs schools to offer professional development opportunities to CBOs operating Beacons.

360. The City sets job qualification requirements for certain Beacon personnel.

361. DOE requires CBOs and host schools to maintain a school partnership agreement and have monthly meetings.

362. CBOs are required to maintain School-Aged Child Care licenses and comply with all applicable regulations.

Summer Rising

363. Summer Rising is a summer camp offered to public school students, jointly operated by the DYCD and DOE, in collaboration with CBOs like MMCC.

364. Summer Rising programs “operate under DOE authorization,” and the “DOE and its individual administrators have a responsibility for the oversight and direction of the Summer Rising program.”

365. At Summer Rising, students take DOE classes in the morning and then participate in CBO-led enrichment activities in the afternoon. This schedule is set by the City.

366. Students do not have an option to only attend the DOE-run portion of Summer Rising; subject to exceptions not applicable here, they must also participate in the CBO-led enrichment sessions if they wish to participate in Summer Rising at all.

367. DYCD Site Directors are responsible for all HR functions for CBO staff, including timekeeping and payroll.

368. DOE and DYCD require CBOs to meet regularly with their host school, attend a planning meeting hosted by DOE, and submit a “Collaborative Planning Tool” document to the DOE and DYCD reflecting their planning efforts and setting schedules and allocating responsibilities for the summer.

369. DOE provides professional learning opportunities to DOE *and* CBO employees operating Summer Rising programs.

370. CBOs must record attendance in a DOE-mandated format, which DOE employees input into the DOE system.

371. CBOs run pick-up and drop-off for Summer Rising, in accordance with strict DOE and DYCD requirements.

372. In accordance with the above procedures, the Municipal Defendants exerted extensive control over and were deeply intertwined with the MMCC Defendants in their operation of both Beacon @ 185 and Summer Rising.

Plaintiffs Suffer Significant Damages

373. As a result of McNeal's abuse and Defendants' failure to prevent it, AA and DD have suffered physical, emotional, and psychological damages.

374. The damage of sexual abuse is always profound, but it is especially so here where the abuse occurred over several years at such a young age, at the hands of an adult the girls should have been able to trust.

375. As a result of McNeal's abuse and Defendants' failure to prevent it, AA and DD have suffered emotional and psychological damages. AA has suffered academic damages.

376. Both AA and DD are currently receiving psychological treatment for the abuse they experienced.

377. Both AA and DD will require highly specialized, trauma-focused therapy by experienced providers for the foreseeable future to process what happened to them. They will also likely require some form of treatment throughout their lives.

378. Both AA and DD have exhibited symptoms of post-traumatic stress disorder. Both children have experienced depression and anxiety.

379. AA has had trouble adjusting to her new school and is exhibiting behavioral changes in the wake of the abuse. Previously a happy and vivacious child, AA now is struggling socially for the first time.

380. AA has developed new difficulties with academics since the abuse, including difficulty with reading and working with male teachers and authority figures. She now has an IEP.

381. DD has also had difficulty socially at her new school. She has struggled dramatically with her ability to talk about the grooming and abuse she experienced. She has difficulty navigating appropriate relationships with adults.

382. AA and DD have been psychologically harmed by the protracted grooming they experienced—a form of emotional abuse involving coercion and threats.

383. AA and DD have been harmed by the institutional betrayal perpetrated by Defendants.

384. The full extent of the damage these events have caused AA and DD is yet untold. Yet research shows that childhood sexual abuse carries significant associated risks later in life.

385. Childhood sexual abuse is associated with increased risks of mental health issues later in life, including depression, anxiety, anti-social personality disorder, substance dependence, suicidal ideation, and suicide attempts.

386. Childhood sexual abuse is associated with increased use of psychopharmacology and contact with health professionals for mental health care.

387. Survivors of childhood sexual abuse also experience both immediate and long-term impacts on their physical health.

388. Survivors of childhood sexual abuse may struggle with self-harm, disordered eating, and thoughts of or attempts at suicide.

389. Survivors of childhood sexual abuse may have difficulty establishing healthy relationships.

390. Individuals who experience grooming as children suffer profound damages, including the inability to navigate normal childhood experiences and master necessary developmental skills.

391. As a result of McNeal's abuse and Defendants' failure to prevent it, and Defendants' failure to adequately and expeditiously apprise them of the abuse their daughter experienced, both AA's and DD's parents have suffered physical, emotional, and psychological damages.

392. AA's parents, BB and CC have experienced depression, anxiety, and paranoia. BB and CC are constantly fearful that McNeal will learn of AA's whereabouts and target her again—particularly since McNeal threatened to kill AA if she disclosed her abuse. They have difficulty trusting new adults in AA's life and letting her go places without them, including but not limited to school, friends' houses, enrichment activities, and summer camps.

393. BB and CC experience severe anxiety over the untold amounts of child pornography that McNeal produced of AA over the years, and the extent to which McNeal distributed this pornography over the internet. BB and CC are terrified that extensive pornography depicting AA has been sold across the internet. BB and CC fear that this pornography will exist for AA's entire life, and may follow AA forever, accessible to future teachers, employers, friends, and anyone AA comes into contact with. They worry this may be fodder for blackmail for the rest of her life.

394. BB and CC have suffered financially due to the trauma they have experienced, including missing work and paying for therapy costs. CC, a freelancer, was fully unable to work for months after AA's disclosure and had no income.

395. As a result of McNeal's abuse and Defendants' failure to prevent it, and Defendants' failure to adequately and expeditiously apprise them of the abuse their daughter experienced, DD's parents EE and FF have suffered physical, emotional, and psychological damages.

396. EE and FF have experienced depression, anxiety, and paranoia after DD's abuse. EE and FF are fearful for DD's safety. They have difficulty trusting new adults in DD's life.

397. EE and FF are fearful that child pornography exists depicting DD on the internet, given that McNeal photographed DD repeatedly. EE and FF are terrified that extensive pornography depicting DD has been sold across the internet. EE and FF fear that this pornography will exist for DD's entire life, and may follow DD forever, accessible to future teachers, employers, friends, and anyone DD comes into contact with.

398. EE and FF have suffered financially due to the trauma they have experienced, including missing work and paying for therapy costs.

CLAIMS FOR RELIEF

COUNT I

Violation of Title IX, 20 U.S.C. § 1681(a), et seq.

Deliberate Indifference to Prior and Ongoing Sexual Harassment

(by Plaintiffs AA and DD against Municipal Defendants and MMCC Defendants)

399. Plaintiffs incorporate by reference the allegations in all previous paragraphs as if fully stated here.

400. Title IX of the Education Amendments of 1972 ("Title IX"), 20 U.S.C. 1681(a), states: "No person in the United States shall, on the basis of sex, be excluded from participation

in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

401. Sexual harassment of students, including sexual abuse of students, is a form of sex discrimination prohibited by Title IX.

402. Sexual harassment is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.

403. Title IX covers all persons subjected to discrimination in any program or activity that receives any federal financial assistance and covers sexual harassment—including sexual assault and sexual abuse—by school employees, students, and third parties.

404. McNeal’s sexual harassment of AA, DD, and others, which included, among other things, fondling their genitals and buttocks (with and without clothing), photographing and videoing his genital touching, photographing their chest and genitalia without clothing, photographing and videoing them in pornographic positions, showing them pornography he produced of other students, forcing them to straddle his lap while he bounced his knees underneath them, touching their bodies in other inappropriate ways, photographing them inappropriately, isolating them in unused classrooms, encouraging them to wear certain outfits to school for him to photograph, and generally violating appropriate teacher-student boundaries—was sex discrimination under Title IX.

405. McNeal’s sexual harassment, including isolation, grooming, and sexual abuse of AA, DD, and others was rampant: it began as soon as he started working at Beacon @ 185 in or around September of 2021, and occurred regularly on campus for over two years until his termination on November 22, 2023.

406. Defendants, including individuals with authority to address his abuse, had actual knowledge of McNeal's abuse of the girls but permitted it to continue.

407. For years, Porscha McNeill had actual knowledge that McNeal had the potential to be isolating and inappropriately touching students. His tactics were blatant: he pulled AA, DD, and others out of classrooms regularly beginning in Fall 2021. He took them to rooms that should have been locked. Teachers allowed him to regularly pull these students out of their classes and activities.

408. Vargas had actual knowledge that McNeal had the potential to be isolating, grooming, and abusing children. Vargas facilitated his grooming herself. She heard his regular walkie-talkie requests for coverage of his class. She saw him regularly walk the halls alone with students.

409. Other employees and agents of Defendants, including but not limited to teachers, staff, school security personnel, and maintenance workers, had actual knowledge that McNeal had the potential to be isolating, grooming, and abusing students. Beginning in Fall 2021, McNeal pulled AA, DD, and other students out of class regularly, and other teachers let him take the girls off on their own. When McNeal was made the sole co-teacher of the Second Graders (Fall 2022-Spring 2023), he had to request coverage for the rest of his class on the walkie talkie when he took AA, DD, and other students out of class alone. Employees at the school heard these repeated requests for coverage come through the walkie talkie. Rather than raising the alarm, these employees did nothing to protect AA, DD, and McNeal's other victims.

410. At the very least as of March 2023, Porscha McNeill had actual knowledge that McNeal had the potential to be isolating, grooming, and abusing DD. Porscha McNeill caught McNeal isolating DD in an unused classroom and forcing her to straddle his leg.

411. At the very least as of March 2023, Assistant Principal Flynn and at least one other DOE teacher had actual knowledge that McNeal had the potential to be isolating, grooming, and abusing DD. The DOE teacher reported to Assistant Principal Flynn that she had seen McNeal forcing DD to straddle his leg in her unused classroom. Assistant Principal Flynn reported the same to Porscha McNeill and filed an occurrence report with the DOE.

412. At the very least as of March 2023, the DOE was aware that McNeal was caught isolating students in an unused classroom and forcing DD to straddle his lap, once Assistant Principal Flynn filed an occurrence report in the DOE system to this effect.

413. Defendants' actual knowledge of McNeal's sexual abuse is indisputable.

414. Vargas, Porscha McNeill, and Assistant Principal Flynn were all individuals with the authority to address discrimination, including sexual harassment and to institute corrective measures on Defendants' behalf.

415. Despite this knowledge, Defendants' officers, agents, servants, and employees did not take any steps to stop McNeal from isolating, grooming, and abusing students—or even limit his access to them—until November 22, 2023.

416. The one-day suspension Porscha McNeill imposed, with no further consequences and continued access to children after his return, had absolutely no effect on McNeal's behavior and amounts to deliberate indifference. McNeal was free to—and did—resume his abuse of AA, DD, and others as soon as he returned to work.

417. After his one-day suspension, Defendants allowed him to resume his position as the sole teacher of the second graders (the only teacher without a co-teacher), in violation of MMCC policy. Just months later, Defendants promoted him to photography teacher, granting

him easier access to more students, plus photography and video equipment he used to make child pornography of students including AA, DD, and others.

418. Assistant Principal Flynn and others were deliberately indifferent to the report that McNeal had isolated DD and was forcing her to straddle his lap. They did nothing in response—they did not even follow up with Porscha McNeill about the consequences, if any, McNeal faced.

419. The Defendants’ deliberate indifference to McNeal’s pattern of sexual harassment and abuse led to ongoing abuse that escalated in frequency and severity.

420. As a direct and proximate result of Defendants’ deliberate indifference, McNeal continued and escalated his grooming and frequent abuse of AA, DD, and others for many more months until his termination in November 2023.

421. As a direct and proximate result of the Defendants’ deliberate indifference to McNeal’s pattern of sexual abuse, which violated Title IX, Plaintiffs AA and DD have suffered and continue to suffer damages and injuries.

COUNT II
Violation of the New York City Human Rights Law, N.Y.C. Admin. Code § 8-107(4)
Discrimination on the Basis of Gender
(by Plaintiffs AA and DD against Municipal Defendants and MMCC Defendants)

422. Plaintiffs incorporate by reference the allegations in all previous paragraphs as if fully stated here.

423. Defendants are “providers of a public accommodation” pursuant to N.Y.C. Admin. Code § 8-102 because they are “providers, whether unlicensed or licensed, of goods, services, facilities, accommodations, advantages or privileges of any kind are extended . . . offered, sold, or otherwise made available.”

424. Defendants know or perceive Plaintiffs AA and DD to be female.

425. Miles McNeal's sexual abuse of Plaintiffs AA and DD denied them of the equal advantages and privileges of a public accommodation, in violation of N.Y.C. Admin. Code § 8-107(4)(a)(1)(A).

426. Miles McNeal was, at all times relevant, an employee of MMCC and/or CDC of MMCC.

427. At all relevant times, the Municipal Defendants were joint employers of Miles McNeal.

428. Defendants are strictly liable for their employee McNeal's discrimination against Plaintiffs pursuant to N.Y.C. Admin. Code 8-107(13)(a).

429. Porscha McNeill and Vargas exhibited deliberate indifference to McNeal's abuse of AA, DD, and others, for years.

430. Their deliberate indifference to McNeal's sexual abuse constitutes sex discrimination itself.

431. Porscha McNeill was, at all times relevant, an employee of MMCC and/or CDC of MMCC.

432. Porscha McNeill was, at all times relevant, also an employee of the DOE.

433. Vargas was, at all times relevant, an employee of MMCC and/or CDC of MMCC.

434. Vargas was, at all times relevant, also an employee of the DOE.

435. Defendants are strictly liable for their employees Porscha McNeill and Vargas's discrimination against Plaintiffs AA and DD pursuant to N.Y.C. Admin. Code 8-107(13)(a).

436. Plaintiffs AA and DD constitute aggrieved persons. N.Y.C. Admin. Code § 8-502(a). AA and DD have been damaged by Defendants' discrimination and are entitled to compensatory damages in an amount to be determined at trial.

437. Defendants' actions in violation of N.Y.C. Admin. Code § 8-107(4) were intentional, done with malice, and/or showed a deliberate, willful, wanton, and reckless indifference to Plaintiff AA and DD's rights, for which they are entitled to an award of punitive damages pursuant to N.Y.C. Admin. Code § 8-502(a).

438. Plaintiffs are entitled to attorneys' fees and costs pursuant to N.Y.C. Admin. Code § 8-502(g).

439. Plaintiffs have caused to be served a copy of this complaint upon the City Commission on Human Rights and Corporation Counsel, pursuant to N.Y.C. Admin. Code § 8-502(c).

COUNT III
Violation of the New York City Victims of Gender-Motivated Violence Protection Act,
N.Y.C. Admin. Code § 10-1104
Enabling Crime of Violence Motivated by Gender
(by Plaintiffs AA and DD against Municipal Defendants, MMCC Defendants)

440. Plaintiffs incorporate by reference the allegations in all previous paragraphs as if fully stated here.

441. The New York City Victims of Gender-Motivated Violence Protection Act ("GMVPA") authorizes a civil cause of action against "a party who commits, directs, enables, participates in, or conspires in the commission of a crime of violence motivated by gender." N.Y.C. Admin. Code § 10-1104.

442. A "crime of violence" includes any acts "that would constitute a misdemeanor or felony against the person," "whether or not those acts have actually resulted in criminal charges, prosecution, or conviction." *Id.* § 10-1103.

443. By sexually abusing Plaintiffs AA and DD, McNeal committed crimes of violence under the GMVPA.

444. McNeal's crimes of violence—sexually abusing Plaintiffs AA and DD—were at least in part motivated by Plaintiffs AA and DD's gender.

445. Defendants enabled McNeal's crimes of violence motivated by gender.

446. Defendants' employees and agents, including but not limited to Porscha McNeill, Vargas, Assistant Principal Flynn, Principal Spence, teachers, staff, school security personnel, and maintenance workers, enabled McNeal's abuse as plead in the preceding paragraphs by, among other things:

- a. Permitting McNeal to take AA, DD, and others out of classes and activities alone without justification;
- b. Permitting McNeal to isolate AA, DD, and others in unused classrooms away from teachers;
- c. Providing McNeal with access to photography and video equipment which he used to make pornography of AA, DD, and others;
- d. Providing McNeal with his own class of students during the 2022-23 school year (the only teacher to have this privilege), which included AA whom he had groomed the year prior;
- e. Covering McNeal's class or permitting others to cover McNeal's class frequently while he left to isolate, groom, and abuse AA, DD, and others;
- f. Imposing an ineffective, one-day suspension on McNeal when he was caught isolating DD and forcing her to straddle his lap, allowing him to immediately have access to children and continue to be the only Beacon @ 185 teacher to have his own class without a co-teacher;

- g. Promoting McNeal to photography teacher just months after his one-day suspension for inappropriately touching DD, allowing him unfettered access to roam the halls during Beacon hours and isolate, groom, and abuse students with more freedom;
- h. Failing to follow MMCC policy that no one teacher should be alone with students;
- i. Failing to train employees to follow MMCC policy that no one teacher should be alone with students and to report violations of this policy;
- j. Failing to follow DOE policy to lock unused rooms;
- k. Failing to train employees to follow DOE policy to lock unused rooms and to report violations of this policy;
- l. Failing to train employees to prevent, investigate, or report the sexual abuse of students;
- m. Failing to have a policy of investigating or reporting staff who sexually abused students;
- n. Failing to notify parents about McNeal's abuse, even after he was caught isolating DD and forcing her to straddle his lap in March 2023 and suspended for one day;
- o. Failing to notify law enforcement about McNeal's abuse.

447. Plaintiffs AA and DD have been damaged by McNeal's crimes of violence motivated by gender—which were enabled by Defendants. Plaintiffs AA and DD are entitled to compensatory damages in an amount to be determined at trial.

448. Defendants' actions in violation of the GMVPA were intentional, done with malice, and/or showed a deliberate, willful, wanton, and reckless indifference to Plaintiffs AA and DD's rights, for which they are entitled to an award of punitive damages.

449. Plaintiffs AA and DD are entitled to recover their attorneys' fees and costs pursuant to N.Y.C. Admin. Code § 10-1104(c).

COUNT IV
Negligent Supervision of AA and DD
(by Plaintiffs AA and DD against Municipal Defendants, MMCC Defendants)

450. Plaintiffs incorporate by reference the allegations in all previous paragraphs as if fully stated here.

451. Defendants owed a duty of care to Plaintiffs AA and DD to prevent the conduct alleged.

452. A school's duty is commensurate with that of a parent of ordinary prudence placed in the identical situation and armed with the same information.

453. Defendants breached their duty by failing to adequately supervise AA and DD.

454. Defendants knew or should have known of McNeal's propensity to engage in sexually abusive conduct.

455. At least as of March 2023, Porscha McNeill, Assistant Principal Flynn, and Vargas were aware that McNeal had isolated DD in an unused classroom and forced her to straddle his lap.

456. In reality, Porscha McNeal, Vargas, and other employees and agents of Defendants, including but not limited to teachers, staff, school security personnel, and maintenance workers, had actual knowledge that McNeal had the potential to be isolating, grooming, and abusing students. Beginning in Fall 2021, McNeal pulled AA, DD, and other students out of class regularly, and other teachers let him take the girls off on their own. When

McNeal was made the sole co-teacher of the Second Graders (Fall 2022-Spring 2023), he had to request coverage for the rest of his class on the walkie talkie when he took AA, DD, and other students out of class alone. Employees at the school heard these repeated requests for coverage come through the walkie talkie. Rather than raising the alarm, these employees did nothing to protect AA, DD, and McNeal's other victims.

457. Defendants breached their duty to Plaintiffs AA and DD by permitting McNeal to regularly abuse both girls.

458. The sexual abuse Plaintiffs suffered at McNeal's hands was a reasonably foreseeable result of Defendants' breach of their duties.

459. By failing to protect Plaintiffs AA and DD from abuse, Defendants failed to exercise reasonable care in supervising Plaintiffs AA and DD. Defendants, their officers, agents, servants, and employees were responsible for Plaintiff AA and DD's injuries as a result of the breach of their duties.

460. As a direct and proximate result of Municipal Defendants' negligent supervision, Plaintiffs AA and DD suffered the damages alleged herein.

COUNT V

Negligent Hiring, Retention and Supervision of McNeal and Vargas (by Plaintiffs AA and DD against Municipal Defendants and MMCC Defendants)

461. Plaintiffs incorporate by reference the allegations in all previous paragraphs as if fully stated here.

462. Defendants negligently hired, retained, and/or supervised McNeal.

463. Defendants hired, retained, and/or McNeal with knowledge of McNeal's propensity to isolate, groom, and abuse students.

464. McNeal was, at all times relevant, an employee of MMCC.

465. At all times relevant, the Municipal Defendants were joint employers of McNeal.

466. Defendants knew or should have known of McNeal's propensity to isolate, groom, and abuse students.

467. By March 2023, Defendants were unequivocally aware that McNeal had isolated DD in an unused classroom and forced her to straddle his lap.

468. In reality, Defendants and their employees and agents, including but not limited to Porscha McNeill, Vargas, Assistant Principal Flynn, and teachers, staff, school security personnel, and maintenance workers, had actual knowledge that McNeal had the potential to be isolating, grooming, and abusing students. Beginning in Fall 2021, McNeal pulled AA, DD, and other students out of class regularly, and other teachers let him take the girls off on their own. When McNeal was made the sole co-teacher of the Second Graders (Fall 2022-Spring 2023), he had to request coverage for the rest of his class on the walkie talkie when he took AA, DD, and other students out of class alone. Employees at the school heard these repeated requests for coverage come through the walkie talkie. Rather than raising the alarm, these employees did nothing to protect AA, DD, and McNeal's other victims.

469. Defendants thus were aware, or should have been aware, of the danger McNeal posed to students.

470. Yet Defendants retained McNeal with knowledge of his propensity to isolate, groom, and sexually abuse students.

471. Defendants negligently hired, retained, and/or supervised Vargas.

472. Vargas was, at all times relevant, an employee of MMCC.

473. Vargas was, at all times relevant, an employee of the DOE.

474. On information and belief, Vargas was responsible for bringing McNeal to work at P.S. 185. Vargas fed McNeal information that he used to groom AA, DD, and others. Vargas

permitted McNeal to watch the children meditate. Vargas gave McNeal preferential treatment, allowing McNeal to be the only teacher to have his own class of students without a co-teacher in the 2022-23 school year, and promoting him to photography teacher the year after. Vargas gave McNeal free rein to use rooms that should be locked. Vargas turned a blind eye when McNeal repeatedly asked for coverage of his class so that he could pull AA, DD, and others out of class to groom and abuse them. Vargas concealed that she and McNeal were related.

475. Defendants knew or should have known that Vargas was permitting and enabling McNeal's grooming and abuse of AA, DD, and others. Porscha McNeill was responsible for running the Beacon @ 185 program. Assistant Principal Flynn was responsible for liaising with CBOs at P.S. 185. Principal Spence was responsible for overseeing the school in her charge. Yet these individuals all ignored that Vargas was effectively running the Beacon program—and grossly mismanaging it. Instead, Vargas was permitted to have effective control over Beacon @ 185 and do nothing to protect AA, DD, or the other students.

476. Yet Defendants retained Vargas with knowledge that she was facilitating McNeal's grooming and abuse of students and otherwise protecting McNeal from any consequences.

477. The sexual abuse Plaintiffs AA and DD suffered was a reasonably foreseeable result of Defendants' breach of their duties.

478. Defendants are liable for their negligent hiring and retention of McNeal and Vargas.

479. As a direct and proximate result of Defendants negligent hiring, retention, and supervision of McNeal and Vargas, Plaintiffs AA and DD suffered the damages alleged herein.

COUNT VI
Negligent Training
(by Plaintiffs AA and DD against Municipal Defendants, MMCC Defendants)

480. Plaintiffs incorporate by reference the allegations in all previous paragraphs as if fully stated here.

481. Defendants failed to adequately train employees, including but not limited to teachers, staff, school security personnel, and maintenance workers to follow MMCC, DOE, and DYCD policy, to recognize warning signs of sexual abuse, and how to identify abusive practices of other staff members.

482. Defendants failed to train employees on DOE and DYCD policy that unused rooms in the school should be locked when not in use, permitting McNeal to easily access unused classrooms to isolate, groom, and abuse Plaintiffs AA, DD, and others.

483. Defendants failed to train employees on MMCC policy that forbade any one adult from being alone with students without another adult present.

484. At the very least as of March 2023, Defendants were aware that McNeal was having inappropriate relationships with students, yet despite having this knowledge, Defendants failed to properly train and/or educate employees on how to avoid putting students into situations which could lead them to being sexually abuse.

485. Because Defendants did not properly train and/or educate employees on these topics, no employees members reported McNeal's harassment (save for the March 2023 incident), and the abuse was allowed to continue for years.

486. The pattern of isolation, grooming, and sexual abuse McNeal perpetrated against AA, DD, and others was a reasonably foreseeable result of Defendants' breach of their duties.

487. Defendants are liable for their negligent training of their employees.

488. As a direct and proximate result of Defendants' negligent training, Plaintiffs AA and DD suffered the damages alleged herein.

COUNT VII
Negligence – Respondeat Superior
(by Plaintiffs AA and DD against the DOE, MMCC Defendants)

489. Plaintiffs incorporate by reference the allegations in all previous paragraphs as if fully stated here.

490. Vargas at all relevant times was an employee of both the DOE and MMCC Defendants.

491. As parent coordinator and the leader of Beacon @ 185, Vargas owed a duty of care to the children at the school and in the program.

492. Vargas breached this duty of care.

493. On information and belief, Vargas was responsible for bringing McNeal to work at P.S. 185. Vargas fed McNeal information that he used to groom AA, DD, and others. Vargas permitted McNeal to watch the children meditate. Vargas gave McNeal preferential treatment, allowing McNeal to be the only teacher to have his own class of students without a co-teacher in the 2022-23 school year, and promoting him to photography teacher the year after. Vargas gave McNeal free rein to use rooms that should be locked. Vargas ignored that McNeal repeatedly asked for coverage of his class so that he could pull AA, DD, and others out of class to groom and abuse them. In short, Vargas protected McNeal, gave him access to students, and facilitated his grooming; McNeal then isolated, groomed, and abused these students, including AA and DD.

494. These acts and/or omissions occurred within the scope of Vargas's employment with the DOE and/or MMCC Defendants.

495. As her employers, both the DOE and MMCC Defendants are liable for Vargas's negligence under the doctrine of *respondeat superior*.

496. Porscha McNeill at all relevant times was an employee of both the DOE and MMCC Defendants.

497. Porscha McNeill's negligence enabled and perpetuated McNeal's abuse.

498. As a substitute teacher at P.S. 185 and the program manager of Beacon @ 185, Porscha McNeill owed a duty of care to the children at the school and in that program.

499. Porscha McNeill breached that duty of care. Porscha McNeill permitted McNeal to take AA, DD, and others out of class alone repeatedly. Porscha McNeill permitted McNeal to be the only teacher to have his own class of students without a co-teacher in the 2022-2023 school year and be promoted to photography teacher the year after. Porscha McNeill ignored that McNeal was regularly asking for coverage for his class in the 2022-23 school year to take AA, DD, and others out of class to groom and abuse them. Porscha McNeill failed to follow MMCC policy and ensure that no one teacher was alone with any one student. Porscha McNeill failed to follow DOE policy and ensure that unused rooms were locked. Porscha McNeill failed to notify any parents that McNeal was caught forcing DD to straddle his lap and subsequently suspended in March 2023. Porscha McNeill failed to inform law enforcement that McNeal was isolating and inappropriately touching students.

500. These acts and/or omissions occurred within the scope of Porscha McNeill's employment with the DOE and/or MMCC Defendants.

501. As her employers, both the DOE and MMCC Defendants are liable for Porscha McNeill's negligence under the doctrine of *respondeat superior*.

502. As a direct and proximate result of Vargas's and McNeill's negligence, Plaintiffs AA and DD suffered the harm alleged herein.

COUNT VIII

Negligent Infliction of Emotional Distress

(by Plaintiffs BB, CC, EE, and FF against Municipal Defendants and MMCC Defendants)

503. Plaintiffs incorporate by reference the allegations in all previous paragraphs as if fully stated here.

504. For years, Defendants, their agents, and employees turned a blind eye while AA and DD were abused.

505. Even though McNeal was suspended in March 2023 for isolating DD in an unused classroom and forcing her to straddle his lap, which, at the very least, Porscha McNeill, Vargas, and Assistant Principal Spence (and other employees at DOE who reviewed Assistant Principal Spence's report) were aware of, Plaintiffs BB, CC, EE, and FF ("the parents") were never informed that McNeal had pulled a student out of class, inappropriately touched her, and was suspended for it.

506. Defendants, their agents, and employees, concealed this information from the parents. Defendants, their agents, and employees, failed to inform law enforcement, even after DD disclosed that she had been inappropriately touched and that McNeal had an inappropriate relationship with AA.

507. Even after McNeal was ultimately terminated, Porscha McNeill, Vargas, and Principal Spence mishandled his termination and failed to provide key information to the parents.

508. Defendants concealed that Vargas was related to McNeal and had protected him and facilitated his grooming and abuse of AA and DD, up until the parents discovered this information on their own after McNeal's February 1, 2024 arrest.

509. Defendants kept Porscha McNeill, Vargas, and Principal Spence in their positions until after McNeal's arrest on February 1, 2024.

510. Defendants lied to P.S. 185 parents at the February 8, 2024, Town Hall meeting. All Defendants concealed that they had been aware of McNeal's abuse at least as of March 2023 and failed to do anything to protect students. MMCC defendants compounded this lie, telling parents that they could not identify which children McNeal had had contact with, and that they fired McNeal "the moment" they had "any suspicions" about him.

511. Municipal Defendants kept MMCC Defendants as the Beacon provider at P.S. 185 until February 16, 2024.

512. Defendants' actions and inaction constitute extreme and outrageous conduct.

513. Defendants' actions and inaction constitute a breach of their duties of care.

514. Defendants engaged in the conduct with reckless disregard of the probability of causing the parents to suffer emotional distress.

515. The parents have experienced acute emotional harm as a result of their children's yearslong grooming and abuse, and as a result of the parents' inability to know about the abuse, prevent it, and protect their children—due to the Defendants' concealment.

516. The parents have experienced particularly acute emotional harm given that McNeal likely created and distributed extensive pornography of their children, the full extent of which is still unknown. They justifiably fear that pornography he produced has been sold on the dark web and disseminated widely.

517. The parents also fear that McNeal has been able to cover his tracks and evade detection of the extent that his pornography has been distributed because of Defendants' mishandling of his termination. When McNeal was terminated, Porscha McNeill revealed to him that she "knew [AA]'s secret," giving him a heads up that he was being terminated, at least in

part, for his sexual abuse of AA—and that a criminal investigation may be forthcoming. On information and belief, Vargas, his relative, tipped McNeal off as well.

518. As a result of Defendants' acts and omissions, the parents have experienced trauma, anxiety, fear, paranoia, and depression.

519. Their fears regarding pornography that McNeal likely produced and distributed of their children are reasonable and well-founded.

520. Defendants' actions and inaction constitute special circumstances that give rise to an especial likelihood of genuine and serious mental distress.

521. It is foreseeable that permitting, enabling and turning a blind eye to years of sexual abuse of children would cause severe emotional distress to the parents of those children.

522. The parents' emotional injuries flowed immediately from Defendants' acts/omissions without any intervening causes.

523. The parents' emotional injuries are genuine.

524. The parents' emotional injuries were direct results of Defendants' acts/omissions.

525. Defendants are liable for their negligent infliction of emotional distress on the Parents.

526. As a direct and proximate result of Defendants' negligence, Plaintiffs BB, CC, EE and FF suffered the damages alleged herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- a. Award Plaintiffs compensatory damages in amounts to be determined at trial, including, without limitation, payment of Plaintiffs' medical and therapeutic and other expenses incurred as consequence of the sexual abuse and/or

harassment and Defendants' deliberate indifference; damages for past, present, and future emotional pain and suffering, ongoing mental anguish, loss of past, present and future enjoyment of life, and loss of past and future earnings and earning capacity;

- b. Award Plaintiffs punitive damages against Defendants in amounts to be determined at trial;
- c. Award Plaintiffs pre- and post-judgment interest;
- d. Award Plaintiffs their attorney's fees and court costs and expenses;
- e. Grant such other and further relief as this Court deems just and proper.

Dated: January 24, 2025
New York, New York

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