

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACQUELINE TURNER; and
DELAWRENCE TURNER, by his Next
Friend DARLENE TURNER; and

Plaintiffs,

Hon.

v.

Case No.:

EAST DETROIT PUBLIC SCHOOLS,

Defendant.

Mark P. Fancher (P56223)
Michael J. Steinberg (P48085)
Kary L. Moss (P49759)
American Civil Liberties Union
Fund of Michigan
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Attorneys for Plaintiffs

COMPLAINT AND JURY DEMAND

NOW COME Plaintiff Jacqueline Turner and Plaintiff DeLawrence Turner, by his mother and next friend, Darlene Turner and by and through their counsel, state as follows:

INTRODUCTION

1. This action concerns a racially hostile educational environment maintained by the Defendant's high school.

2. Plaintiffs are siblings who are of African ancestry. During the latter part of 2005 and during the early months of 2006, Plaintiffs were enrolled as students at East Detroit High School, located in Eastpointe, Michigan.
3. For the duration of Plaintiffs' enrollment at the school, they were forced to endure the daily use of racial epithets and taunts by numerous white students in the school's corridors, the cafeteria and in other areas of the school where students congregated.
4. On a daily basis, five white male students who routinely sat at a table in the cafeteria adjacent to a table regularly occupied by the Plaintiffs, taunted and threatened the Plaintiffs while using racial epithets.
5. Plaintiffs complained to members of the school's staff about the conduct of the white students.
6. Although Plaintiffs observed the cafeteria security guard conferring quietly with the white students on a single occasion, the racial harassment and threats did not in any way diminish.
7. On or about January 11, 2006, the five white students physically attacked Plaintiffs immediately after one of the white students directed racial epithets at them.
8. Racial animus and use of racial epithets, and racially derogatory language were pervasive and continuous at the Defendant school before Plaintiffs enrolled.
9. Racial comments and racial epithets were uttered not only by white students, but also by certain members of the school's staff, faculty and administration.
10. Notwithstanding complaints to Defendant about the school's racially hostile environment from persons other than Plaintiffs, no steps were taken by Defendant to

effectively address the problem generally and to specifically prevent the racial hostility experienced by Plaintiffs.

11. Plaintiffs seek a declaration from this Court that the Defendants violated applicable provisions of Title VI of the Civil Rights Act Of 1964 and the Michigan Elliot Larsen Civil Rights Act. Plaintiffs further seek damages to compensate them for the violation of their civil rights.

PARTIES

12. Plaintiff DeLawrence Turner is 17 years old and a resident of Eastpointe, Michigan. He brings this action through his mother and next friend, Darlene Turner.
13. Plaintiff Jacqueline Turner is 18 years old and a resident of Eastpointe, Michigan.
14. Defendant East Detroit Public Schools is located in Eastpointe, Michigan.

JURISDICTION AND VENUE

15. Plaintiffs bring this action pursuant to Sec. 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et. seq.* seeking declaratory relief and an award of damages to redress racial discrimination suffered by the Plaintiffs. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331; 28 U.S.C. § 1343; and 28 U.S.C. §§ 2201 and 2202.
16. Plaintiffs also bring this action pursuant to Michigan's Elliott-Larsen Civil Rights Act M.C.L. § 37.2101 *et seq.* Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over Plaintiffs' state law claims because they form part of the same case or controversy as Plaintiffs' Title VI claims.
17. This Court has general personal jurisdiction over Defendant because it is a governmental agency with its principal place of business in Michigan.

18. Venue is properly laid in the Eastern District of Michigan, Southern Division, pursuant to 28 U.S.C. § 1391(b) because Defendant's principal place of business is located in the District and the events or omissions giving rise to the claim occurred in the District.
19. Venue is also properly laid in this Court because Plaintiffs reside in the County of Macomb.

FACTUAL ALLEGATIONS

20. Plaintiffs' mother enrolled the Plaintiffs in East Detroit High School during November, 2005. Plaintiff DeLawrence Turner was enrolled in the ninth grade class and Plaintiff Jacqueline Turner was enrolled in the tenth grade class.
21. From the outset, Plaintiffs observed that before and after school and during class changes during the school day, white students could be easily overheard in the school's corridors using epithets such as "nigger" in their casual conversations with each other.
22. Plaintiffs also observed that school security guards, teachers and administrators regularly walked the corridors while white students were present in those areas in large numbers.
23. As new students, Plaintiffs had few acquaintances at the school, and they chose to have lunch together each day in the school cafeteria.
24. Five white male students routinely met for lunch at a table near the table frequented by Plaintiffs. These students would direct taunts at Plaintiffs as they walked past their table each day. These taunts were usually racial in nature, e.g., "coon" or "What are you looking at nigger?"

25. On two occasions, Plaintiffs complained about the racial harassment to the cafeteria security guard. They reported the problem yet again to a different security guard, and also to a school counselor, but the taunting continued.
26. On or about January 11, 2006, the racial taunting by the white students escalated, and Plaintiff DeLawrence Turner responded. After an exchange of insults, one of the white students used the word “nigger” as many as 10 times. In reference to Plaintiffs, he declared: “They’re ignorant, They’re ignorant.” He also called Plaintiff, Jacqueline Turner a “bitch.”
27. Then, the white student, and ultimately all of the five white students, physically attacked Plaintiffs and attacked them repeatedly until school security guards pulled them away.
28. In the aftermath of the attack, Plaintiffs complained to Defendant about the racial nature of the attack, as well as other racial conditions at the school.
29. Notwithstanding Plaintiffs’ complaints, a racially hostile educational environment continued at the school for the duration of the Plaintiffs’ enrollment there.
30. On information and belief, racially charged fights between black students and white students were common at East Detroit High School in the period immediately preceding Plaintiffs’ enrollment.
31. On information and belief, certain members of the school staff, faculty and administration were aware of the interracial conflicts and their racial nature. Not only did the employees of Defendant fail to effectively address the underlying causes of these fights, but certain employees also engaged in discriminatory treatment of black

combatants and directed racial slurs and other offensive racial language at black students.

32. On information and belief, complaints about these racial conflicts were made to school administrators, and these complaints did not result in measures that effectively eliminated the identified problems.
33. Because of the actions and inaction of Defendant, Plaintiffs have suffered and continue to suffer immediate and long-term irreparable harm resulting from their having been deprived of access to all or part of educational opportunities and benefits provided by Defendant.

COUNT ONE

DEFENDANT VIOLATED PLAINTIFFS' RIGHTS UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 BY MAINTAINING A RACIALLY HOSTILE EDUCATIONAL ENVIRONMENT

34. Plaintiffs repeat and re-allege the facts recited in paragraphs 1 through 33 and incorporate them as if set forth at length herein.
35. Title VI of the Civil Rights Act of 1964 provides: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d.
36. On information and belief, Defendant receives federal financial assistance and is therefore subject to the mandates of Title VI.
37. Title VI prohibits educational institutions that receive federal funds from remaining deliberately indifferent to an environment where objectively offensive racial

conditions are so severe and pervasive that students are deprived of access to educational opportunities or benefits provided by the school.

38. Defendant intentionally maintained, or was deliberately indifferent to an environment that was racially hostile to Plaintiffs, and as a consequence, the Plaintiffs were deprived of access to educational opportunities and benefits provided by the school.

39. Accordingly, Defendant has wrongfully violated, and continues to violate the Plaintiffs' rights under Title VI of the Civil Rights Act.

COUNT TWO

DEFENDANT VIOLATED PLAINTIFFS' RIGHTS UNDER THE MICHIGAN ELLIOT-LARSEN CIVIL RIGHTS ACT BY MAINTAINING A RACIALLY HOSTILE EDUCATIONAL ENVIRONMENT

40. Plaintiffs repeat and re-allege the facts recited in paragraphs 1 through 33 and incorporate them as if set forth at length herein.

41. Michigan's Elliott Larsen Civil Rights Act provides in relevant part:

“An educational institution shall not do any of the following:

- (a) Discriminate against an individual in the full utilization of or benefit from the institution, or the services, activities, or programs provided by the institution because of religion, race, color, national origin, or sex.
- (b) Exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution, because of religion, race, color, national origin, or sex.”

M.C.L. § 37.2402

42. This provision and others of M.C.L. § 37.2101 *et seq.* prohibit unwelcome racial conduct or communication that is intended to, or that does in fact substantially interfere with Plaintiffs' education, or which creates for them an intimidating, hostile or offensive educational environment.

43. The acts and omissions of Defendant did in fact result in unwelcome racial conduct or communication that substantially interfered with Plaintiffs' education, and which created for them an intimidating, hostile and offensive educational environment.

44. Accordingly, Defendant has wrongfully violated the Plaintiffs' rights under the Elliott Larsen Civil Rights Act.

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Assert jurisdiction over this action;
- B. Declare that the Plaintiffs' rights under Title VI of the Civil Rights Act were violated by a racially hostile educational environment maintained by Defendant;
- C. Declare that the Plaintiffs' rights under the Michigan Elliott Larsen Civil Rights Act were violated by a racially hostile educational environment maintained by Defendant;
- D. Award compensatory damages to Plaintiffs;
- E. Award costs and attorneys fees pursuant to 42 U.S.C. §1988 and MCL 37.2802 and
- F. Such other relief that this Court deems just and equitable.

Respectfully Submitted,

s/ Mark P. Fancher
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Attorneys for Plaintiff

DATED: January 8, 2009

JURY DEMAND

Plaintiffs Jacqueline Turner and DeLawrence Turner demand a trial by jury of all issues in the within causes of action.

s/ Mark P. Fancher

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