

high achieving and high potential student into one who twice tried taking his life, all of which was completely avoidable.

PARTIES

3. Plaintiffs M.B. and A.K. are residents of Kearny, Hudson County, New Jersey, and are the natural parents of A.B., a minor child, who bring this action individually on their own behalf and on behalf of A.B. They bring this action anonymously to protect the rights of A.B., a minor.

4. Defendant Talia Edi (“Edi”) was at all relevant times an employee of the Kearny School District and works as a guidance counselor at KHS, where she was A.B.’s guidance counselor.

5. Defendant Kearny School District (“District”) is a recognized public education venue, with a principal office and place of business located at 172-174 Midland Avenue, Kearny, New Jersey, which includes Kearny High School (“KHS”) and is vicariously liable for all of Edi’s violations of law which resulted in the damages she caused to the plaintiffs.

6. Defendants John Does 1-10, is a fictitious name for individuals including but not limited to those who acting alone or in concert with others formulated, who directed, controlled, had the authority to control, or participated in or otherwise caused the acts and practices set forth in this Complaint.

FACTS COMMON AS TO ALL CAUSES OF ACTION.

7. M.B. and A.K. are natives of Morocco. A.B. was born in the United States.
8. M.B., A.K. and A.B. are practicing Muslims.
9. In the 2020–2021 school year, A.B. was a freshman student at KHS.
10. KHS is a place of public accommodation.

11. A.B. was an academically outstanding student with a 4.4 G.P.A. (A+), and who was a particularly high achieve in math and science.

12. A.B. also was a kind and respectful student., who was enrolled in various Honors level classes at KHS.

13. Due to the COVID-19 pandemic, school was conducted remotely from late March 2020 until April 2021.

14. At all pertinent times, Edi was A.B.'s guidance counsellor.

15. Defendant Kearny School District is vicariously liable for Edi's mis conduct under the law as set forth herein.

16. When schools reopened in April 2021, KHS in-person attendance was optional. A.B. was one of only a few students who returned to the classroom for school.

17. Beginning in April 2021, A.B.'s mother, A.K., worked as a substitute teacher at KHS, which lacked substitute teachers.

18. Because of his exceptional academic performance, A.B. qualified for admission to the Hudson County School of Technology Prep School in Jersey City ("HCST"), a free public magnet high school of choice for Hudson County residents. However, A.B. elected to enroll at KHS so that he could participate in sports, and in reliance on the reasonable belief that he would have equal opportunity for a thorough and efficient education.

19. In April 2021, KHS students were selecting classes for the following school year. A.B. expected to enroll in Honors Chemistry, for which he was fully qualified.

20. Based upon his academic performance, A.B. reasonably believed and expected that his request to be enrolled in Honors Chemistry would be granted. Indeed, A.B. should have been automatically enrolled in Honors Chemistry due to his exceptional performance.

21. Upon information and belief, Edi harbored prejudices against the plaintiffs because they were Muslims and were from Morocco.

22. On April 29, 2021, A.B. asked Edi by email if there was an Honors Lab Chemistry class he could take the following school year, in which A.B. would be a Sophomore year. Edi responded that, "There is . . . , I would like to ask your science teacher if she feels that is a good idea."

23. A.B. reasonably relied on and trusted Edi to fairly and appropriately respond to his request to enroll in Honors Chemistry and to be truthful with him.

24. As A.B.'s guidance counselor and, based upon A.B.'s grades reported in the KHS database system to which Edi had full access, Edi knew or should have known that A.B. was eligible for Honors Chemistry.

25. To confirm whether A.B. was eligible for Honors Chemistry, Edi only needed to have a conversation with A.B.'s science teacher, yet Edi never checked with A.B.'s science teacher as she said she would, a fact she did not disclose to A.B. or his parents.

26. Thereafter, Edi misrepresented and misled A.B. into believing that there was an irreconcilable scheduling conflict preventing him from being enrolled in Honors Chemistry, which was in whole or in part, due to A.B. and his family being practicing Muslims from Morocco.

27. A.B. had a right to know whether or not his chemistry teacher did not recommend him for Honors Chemistry if, in fact, that were true, and Edi was duty bound to disclose the truth to A.B. and his parents.

28. Between April 29 and June 17, 2021, A.B. followed up with Edi in person about his request to enroll in Honors Lab Chemistry the following school year, to which Edi failed to respond in any rational way, if at all.

29. On June 17, 2021, A.B. followed up with Edi by email as follows:

Hi Ms. Edi, I emailed you about taking Honors Lab Chemistry a while ago and you said you would talk to my teacher about it, but I am still not sure if I will be taking it or not. Taking Honors Lab Chemistry is really important to me because I have taken an honors science class the past two years and I know I am academically capable of succeeding in Honors Lab Chemistry, taking all honors classes in general has always been very important to me. (emphasis added)

30. On June 18, 2021, Edi responded to A.B. by email that, "there is a scheduling conflict and it doesn't fit your schedule. I need something during period 8, but there isn't anything available. Sorry." A.B. responded and asked, "Will switching my elective or lunch period change that? If not, I understand. Thank you." Edi responded, "No, I tried that."

31. Upon information and belief, despite claiming that she undertook such efforts, in fact Edi did no such thing at all and instead was lying to A.B., and acted to ensure that A.B. would not be scheduled for Honors Chemistry.

32. Edi did not offer any course schedule change to accommodate Honors Chemistry, and did not advise A.B. that he could switch classes to clear the schedule conflict, an option which was available to A.B. at all pertinent times.

33. In September 2021, A.B. was the only student with a "scheduling conflict," who was unable to get into Honors Chemistry.

34. A.B. began his sophomore year at KHS in September 2021, and was enrolled in various Honors or Advanced Placement level courses, except for Chemistry.

35. On September 15, 2021, A.B. transmitted an email to Edi and stated as follows:

Hello Ms. Edi, I spoke with my Chemistry teacher Ms. Shedlock and she explained that Honors Chemistry is offered periods 1, 2 and 5 and that Mr. Polk is interested in trying to work something out with my schedule. I do not want to drop any of my classes in those periods, although I thought that maybe if one of the 3 classes I take during those periods is offered in Period 7? As so I could simply switch that class to

its period 7 counterpart, allowing me to take Honors Chemistry in periods 1, 2, or 5? My period 1, 2, and 5 classes are AP US History 1, Algebra 2 Honors, and Sophomore English Honors. Are any of those offered during period 7? Thank you.

36. On September 16, 2021, Edi responded to A.B. by email and stated, "Please stop by tomorrow before school to look at this. It is too much for an email."

37. On September 27, 2021, before school, A.B. reported to Edi's office as requested to discuss his ongoing request to enroll in Honors Chemistry. In such meeting, Edi was untruthful to A.B. and misled him by telling him that he could not be enrolled in Honors Chemistry and/or that he was not academically qualified to do so.

38. Edi's misinformation and misrepresentations confused and frustrated A.B. and caused him to fall into anxiety and depression, partially due to deciding not to attend the HCST, which offered honors classes for students with his abilities, including Honors Chemistry.

39. Despite A.B. own continuous efforts to enroll in Honors Chemistry, which was of utmost importance to him, A.B. was unable to determine why he was ineligible for Honors Chemistry or why his schedule could not be adjusted to accommodate his enrollment in Honors Chemistry.

40. A.B. kept his depression secret from his parents M.B. and A.K. as he tried to work out the problem on his own with Edi; however, A.B.'s mental state grew progressively worse.

41. By mid-October A.B. felt regret and started to feel depressed because of the scheduling issues which purportedly prevented him from enrolling in Honors Chemistry. Thus, A.B. started seeking help from the KHS school psychologist on the school's internet but she was booked.

42. Edi knew that A.B. was looking for help for his mental health on KHS internet and knew the school psychologists were booked because she knew their schedule, yet did nothing to

assist A.B. in getting medically necessary mental health help, and failed to advise M.B. and A.K. that their minor child was in need of professional mental health assistance.

43. Edi knew that Honors Chemistry was important to A.B. and said nothing to A.K. about the purported scheduling conflict although A.K. was often in KHS substitute teaching.

44. Around mid-October 2021, Edi finally approached A.K., when she was substitute-teaching in the KHS Science Department as a daily sub.

45. A.K. told Edi that A.B. was happy the whole summer in Morocco but regretted not attending HCST and was now depressed.

46. Rather than acknowledge that A.B. had desperately been seeking her assistance to enroll in Honors Chemistry, which she knew was extremely important to A.B., Edi did not disclose her communications with A.B. about his desire to be enrolled in HCST, and her role is frustrating A.B.'s wishes, all of which she knew was causing him severe emotional distress.

47. Instead, feigning concern and to create misdirection, Edi suggested that A.B. join a youth group at the school.

48. Edi told A.K. or that A.B. was seeking help and did not give any advise her that A.B. was seeking mental help, although Edi knew the emotional distress, she had caused him and that A.B. was seeking mental health counselling.

49. A.K. did whatever she could to lift A.B. out of his depression, and kept asking him what was bothering him but he could not verbalize what was wrong, as his depression was becoming more severe.

50. A.K. began speaking with Edi every other day at KHS when she was available without appointment to give her updates on A.B., because Edi initiated a concern that A.B. might become a safety issue at KHS, thus demonstrating a prejudice toward A.B. as a Muslim and a

Moroccan of color, and a desire to discriminate against him while knowing that he was suffering under a disability or a perceived disability.

51. A.K. asked Edi for a school psychologist for A.K. to speak with, but Edi told her that the school psychologist was booked although A.K. was in need of help.

52. Around mid-November 2021, the week before Thanksgiving, A.B. approached A.K. and told her that A.B. was eligible for Honors Chemistry but did not take it because his counselor Edi told him he was not recommended by his science teacher and that there was a scheduling conflict that could not be resolved. A.B. did not know that Edi's excuses were untrue, and A.K. never before had been advised by Edi of such purportedly truthful information which, in fact, was completely false.

53. Edi's conduct was extreme and outrageous, and was unworthy of a person living in a civilized society, most particularly one who is charged with and paid for overseeing the well-being of children in her charge, including A.B.

54. Thereafter, A.K. asked Mr. Polk, the KHS Science Department Supervisor, to check on A.B.'s grades to confirm whether he was eligible for Honors Chemistry, after which Mr. Polk confirmed A.B.'s eligibility.

55. Mr. Polk immediately wrote an email to Mr. Measso, Director of Counseling at KHS, and called Edi.

56. Edi told Mr. Polk that they would need to change A.B. schedule "up and down" to take Honors Chemistry fit and that she would not be able to do anything until Mr. Measso returned from family loss leave. A.K. told Mr. Polk that A.B. was willing to do anything to take Honors Chemistry even skip lunch break.

57. After Thanksgiving 2021, when Mr. Measso had returned, A.K. met with Edi in the KHS counseling office hallway, where Edi told A.K. indifferently that she “could not do anything for A.B. because if she did, other parents would ask for the same thing.”

58. Edi knew what mental health problems A.B. was having and that he was eligible for Honors Chemistry, A.K. insisted on seeing Mr. Measso, after which a meeting was arranged.

59. Before A.K. could speak with Mr. Measso at the scheduled meeting, Edi went into Mr. Measso’s office for about fifteen minutes. When Edi returned, she told A.K. that Mr. Measso approved the schedule change for Honors Chemistry.

60. At all times, all that had been required was for Edi to change A.B.’s math class from period 2 to period 5 to accommodate Honors Chemistry, which was not an irreconcilable scheduling conflict at all.

61. By Thanksgiving 2021, A.B. was already suffering chemical depression as a result of Edi not enrolling A.B. in Honors Chemistry, but he was hiding it.

62. By the time A.B. joined the Honors Chemistry class, he was already in mental distress, and would say to A.K., “I have bad thoughts in my mind. I don’t sleep,” and that he needed to see a psychiatrist.

63. In December 2021, A.B.’s depression kept him from attending classes, including that he would not attend his Honors Chemistry lab at 7:30 a.m., because he was unable to awaken for class due to his depression.

64. In December 2021, A.B. started losing focus in math and was struggling to get his work done, although he had previously been an outstanding math scholar.

65. In mid-December 2021, A.B. told A.K. that he had been struggling with depression since September and had been hiding it, and that he needed a psychiatrist. By such time, A.B. could do schoolwork but was unable to take math tests.

66. In December 2021, shortly before Christmas, A.B. went to Edi's office to talk to her about his math class, but was unable to express himself for a half hour even on a paper she gave to him to write on. He could only write broken words, thus demonstrating that he was suffering with a severe mental health crisis, yet Edi did nothing to find appropriate help for A.B.

67. On December 29, 2021, A.B. had a break from mental reality and was admitted to Newark Beth Israel Hospital, under the care of the Crisis Team. A.K. took A.B. to the emergency room as he was non-communicative. A.B. remained under hospital care until January 12, 2022, and was prescribed mood disorder and antipsychotic medication.

68. After A.B. was discharged from the hospital after being stabilized, A.K. asked him what the reason was for his depression. A.B. answered that it all started in his school counselor's office when Edi kept giving him different excuses for not being enrolled in Honors Chemistry and he could not understand why. At such time, A.B. did not tell A.K. about his emails with Edi.

69. On January 24, 2022, A.B. was admitted to Newark Beth Israel Hospital a second time for another mental break down. He remained admitted for fourteen days.

70. While A.B. was hospitalized the second time, A.K. went to Edi to ask why she was confusing A.B. by telling him different reasons why he could not be enrolled in Honors Chemistry whenever he had reached out to her.

71. As a result of A.K.'s inquiries, Edi called Mr. Measso to the room and A.K. explained to him what happened to A.B.

72. Mr. Measso then checked A.B.'s portal and said that his freshman science teacher, Maria Sanchez, "must have made a mistake by clicking the wrong button."

73. Mr. Measso said as much only to defend Edi, who had caused A.B.'s mental illness with her misdirections and did not explain why Edi could not simply have confirmed A.B.'s supposed ineligibility in light of her knowledge about A.B.'s strong desire to be enrolled in the class and his outstanding scholarship.

74. After discharge from the hospital for the second time, A.B. resumed school under home instruction between February and April 2022, then returned to in-school instruction at KHS between April and June 2022.

75. In June 2022, A.B. finally told A.K. about his emails with Edi, which caused A.K. to start corresponding with KHS Principal, Richardson, and Kearny Superintendent of Schools, Patricia Blood.

76. In response to A.K.'s inquiries, Richardson and Blood represented to A.K. that A.B.'s science teacher made a "keying error" in accidentally indicating A.B. to be ineligible for Honors Chemistry, and that the error could have been rectified sooner had it been brought to light sooner, which is what Edi failed to do despite representing to A.B. that she was checking with his science teacher.

77. Blood admitted that KHS erred by not discovering the Honors Chemistry recommendation error, not correcting the error sooner, and that the error should have been discovered sooner.

78. In September 2022, A.B. began in-school instruction at KHS for his junior year.

79. At the end of November 2022, A.B. dropped out of KHS because of the emotion distress with which he was suffering, and the lack of focus caused by the anti-psychotic medication he had been prescribed.

80. On December 9, 2022, A.B. unsuccessfully attempted suicide at home.

81. In February 2023, A.B. was on home instruction to continue his high school education.

82. A.B. has not returned to KHS, and now attends a specialty school as a result of the psychiatric and severe emotional harm he suffered due to defendants' misconduct and neglect.

83. A.B.'s psychiatric and emotional well-being are permanently and irreparably damaged and are continuing.

84. A.B. requires lifetime psychiatric care and medication.

85. A.K. and B.A. suffer the loss of society and companionship of their son, A.B., who has suffered permanent severe psychiatric and emotional harm as the direct and proximate result of defendants' conduct and neglect.

FIRST COUNT
(Law Against Discrimination – Religion)

86. A.B. repeats and reasserts each and every allegation above, as if fully set forth herein at length.

87. Defendant Edi engaged in discrimination against A.B. in his education and in a place of public accommodation on the basis of his religion in violation of *N.J.S.A. 10:5-1 et seq.*, the New Jersey Law Against Discrimination ("LAD").

88. By reason of such discrimination, the plaintiffs who directly and proximately caused severe and permanent damages, including emotional distress, economic damages, loss of love and affection, physical harm, consequential damages, among other things.

WHEREFORE the plaintiffs demand judgment in their favor, and against defendants, jointly and severally, as follows:

- A. Awarding compensatory damages;
- B. Awarding consequential damages;
- C. Awarding punitive damages;
- D. Awarding all costs of suit, including reasonable attorneys' fees and expert witness costs;
- E. Awarding interest as allowed by law.
- F. Awarding such other and further relief as this Court deems equitable and just.

SECOND COUNT
(Law Against Discrimination – Race)

89. A.B. repeats and reasserts each and every allegation above, as if fully set forth herein at length.

90. Defendant Edi engaged in discrimination against A.B. in his education and in a place of public accommodation on the basis of his race in violation of *N.J.S.A. 10:5-1 et seq.*, the New Jersey Law Against Discrimination (“LAD”).

91. By reason of such discrimination, the plaintiffs who directly and proximately caused severe and permanent damages, including emotional distress, economic damages, loss of love and affection, physical harm, consequential damages, among other things.

WHEREFORE the plaintiffs demand judgment in their favor, and against defendants, jointly and severally, as follows:

- A. Awarding compensatory damages;
- B. Awarding consequential damages;
- C. Awarding punitive damages;

D. Awarding all costs of suit, including reasonable attorneys' fees and expert witness costs;

E. Awarding interest as allowed by law.

F. Awarding such other and further relief as this Court deems equitable and just.

THIRD COUNT
(Law Against Discrimination – Color)

92. A.B. repeats and reasserts each and every allegation above, as if fully set forth herein at length.

93. Defendant Edi engaged in discrimination against A.B. in his education and in a place of public accommodation on the basis of his color in violation of *N.J.S.A. 10:5-1 et seq.*, the New Jersey Law Against Discrimination ("LAD").

94. By reason of such discrimination, the plaintiffs who directly and proximately caused severe and permanent damages, including emotional distress, economic damages, loss of love and affection, physical harm, consequential damages, among other things.

WHEREFORE the plaintiffs demand judgment in their favor, and against defendants, jointly and severally, as follows:

A. Awarding compensatory damages;

B. Awarding consequential damages;

C. Awarding punitive damages;

D. Awarding all costs of suit, including reasonable attorneys' fees and expert witness costs;

E. Awarding interest as allowed by law.

F. Awarding such other and further relief as this Court deems equitable and just.

FOURTH COUNT
(Law Against Discrimination – National Origin)

95. A.B. repeats and reasserts each and every allegation above, as if fully set forth herein at length.

96. Defendant Edi engaged in discrimination against A.B. in his education and in a place of public accommodation on the basis of his national origin, Morocco, in violation of *N.J.S.A. 10:5-1 et seq.*, the New Jersey Law Against Discrimination (“LAD”).

97. By reason of such discrimination, the plaintiffs who directly and proximately caused severe and permanent damages, including emotional distress, economic damages, loss of love and affection, physical harm, consequential damages, among other things.

WHEREFORE the plaintiffs demand judgment in their favor, and against defendants, jointly and severally, as follows:

- A. Awarding compensatory damages;
- B. Awarding consequential damages;
- C. Awarding punitive damages;
- D. Awarding all costs of suit, including reasonable attorneys’ fees and expert witness costs;
- E. Awarding interest as allowed by law.
- F. Awarding such other and further relief as this Court deems equitable and just.

FIFTH COUNT
(Law Against Discrimination – Disability or Perceived Disability)

98. A.B. repeats and reasserts each and every allegation above, as if fully set forth herein at length.

99. Defendant Edi engaged in discrimination against A.B. in his education and in a place of public accommodation on the basis of disability or perceived disability in violation of *N.J.S.A. 10:5-1 et seq.*, the New Jersey Law Against Discrimination (“LAD”).

100. By reason of such discrimination, the plaintiffs who directly and proximately caused severe and permanent damages, including emotional distress, economic damages, loss of love and affection, physical harm, consequential damages, among other things.

WHEREFORE the plaintiffs demand judgment in their favor, and against defendants, jointly and severally, as follows:

- A. Awarding compensatory damages;
- B. Awarding consequential damages;
- C. Awarding punitive damages;
- D. Awarding all costs of suit, including reasonable attorneys’ fees and expert witness costs;
- E. Awarding interest as allowed by law.
- F. Awarding such other and further relief as this Court deems equitable and just.

SIXTH COUNT
(New Jersey Civil Rights Act, N.J.S.A. § 10:6-2)

101. A.B. repeats and reasserts each and every allegation above as if fully set forth herein at length.

102. Article I, ¶1, of the New Jersey State Constitution provides that, “All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.”

103. Article I ¶5, of the New Jersey State Constitution provides that, “No person shall be denied the enjoyment of any civil or military right, nor be discriminated against in the exercise of any civil or military right, nor be segregated in the militia or in the public schools, because of religious principles, race, color, ancestry or national origin.”

104. Article VIII, Section IV, ¶ 1 of the New Jersey State Constitution guarantees a thorough and efficient free public school for the institution of all children in the state between the ages of five and eighteen years.

105. New Jersey law guarantees equal protection of the law, and due process under the law, and precludes discrimination based on race, color, religion, national origin, and actual or perceived disability.

106. Without limitation, for such reasons and the other reasons set forth above, A.B.’s civil rights have been violated by defendants, who are state actors acting under color of law, and are thus liable for the damages they have caused him.

WHEREFORE plaintiffs demand judgment in their favor, and against defendants, jointly and severally, as follows:

- A. Awarding compensatory damages;
- B. Awarding consequential damages;
- C. Awarding punitive damages;
- D. Awarding all costs of suit, including reasonable attorneys’ fees and expert witness costs;
- E. Awarding interest as allowed by law.
- F. Awarding such other and further relief as this Court deems equitable and just.

MURRAY-NOLAN BERUTTI LLC

Ronald A. Berutti

By: _____
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Dated: May 30, 2023

JURY DEMAND

Trial by jury of twelve (12) persons is demanded on all counts so triable.

DESIGNATION OF TRIAL COUNSEL

Ronald A. Berutti is hereby designated as trial counsel for the plaintiff.

CERTIFICATION PURSUANT TO R. 4:5-1(b)(2)

The matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, or whether any other action or arbitration proceeding is contemplated.

MURRAY-NOLAN BERUTTI LLC

Ronald A. Berutti

By: _____
Ronald A. Berutti
136 Central Avenue, 2nd Floor
Clark, New Jersey 07066
(908) 588-2111
ron@murray-nolanberutti.com

Dated: May 30, 2023

VERIFICATION

M.B. and A.K., of full age, verify the following under penalty of perjury:

I am the plaintiff in the within matter. I have reviewed the Complaint and know the contents thereof, which I know to be true, except with respect to those acts which are not my own, which I believe to be true.

MB
M.B.

AK
A.K.

Dated: May 29, 2023