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**OPINION, U.S. COURT OF APPEALS
FOR THE FOURTH CIRCUIT
(JUNE 9, 2026)**

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

SHELLY G. HUDSON,

Plaintiff–Appellant,

v.

CHARLESTON COUNTY SCHOOL DISTRICT;
DANA RODGERS, in her individual capacity;
JENNIFER COKER, in her individual capacity,

Defendants–Appellees.

No. 25-2088

Appeal from the United States District Court for the
District of South Carolina, at Charleston.

David C. Norton, District Judge. (2:22-cv-03423)

Submitted: April 14, 2026 Decided: June 9, 2026

Before: DIAZ, Chief Judge,
HARRIS and BENJAMIN, Circuit Judges.

PAMELA HARRIS, Circuit Judge:

Shelly Hudson taught for one year at a school
for students with severe behavioral problems. After

leaving that position, she sued the school district, the school's principal, and another district employee, claiming students at the school had racially and sexually harassed her and that the defendants were liable for the resulting hostile work environment. The district court found that Hudson had not provided the defendants with sufficient notice of the alleged harassment and granted summary judgment to the defendants. Finding no errors, we affirm.

In 2018, Hudson accepted a teaching position at the Daniel Jenkins Academy ("DJA"), an alternative school in the Charleston County School District.¹ DJA was designed to serve students with severe behavioral and mental health challenges, many of whom were assigned to attend the school in lieu of expulsion. At the time she accepted the position, Hudson had taught in similar alternative schools for more than a decade.

During the sole year she taught at DJA, Hudson faced consistent harassment from students, who sometimes mocked and threatened her and frequently used vulgar language towards her. As is relevant here, some of this harassment involved the use of racial and sex-based slurs, including the terms "cracker" and "bitch." In response, Hudson made at least 67 written disciplinary referrals to the school's administration. According to Hudson, the school responded with inadequate punishments that only encouraged the harassment to intensify. On a particularly tough day late in the school year, Hudson suffered a panic

¹ Except as otherwise noted, the facts presented here are not meaningfully disputed by the parties.

attack while teaching. She took leave, later resigned from her position, and has not worked since.

Hudson sued the school district, the DJA principal, and the principal's supervisor (whom Hudson described as the person in charge of student discipline for the school district). As is relevant on appeal, she claimed the defendants subjected her to a racially and sexually hostile work environment, in violation of Title VII of the Civil Rights Act of 1964.² Importantly, Hudson did not assert that any of the defendants themselves harassed her, but rather that they should be held liable for the harassment she faced from her students.

To meet her burden at the summary judgment stage, Hudson had to offer evidence sufficient to create a genuine dispute of fact that the conduct at issue was (1) unwelcome, (2) based on her race and/or sex, (3) "sufficiently severe or pervasive" to alter the conditions of her employment and create an abusive work environment, and (4) imputable to the defendants. *Webster v. Chesterfield Cnty. Sch. Bd.*, 38 F.4th 404, 410 (4th Cir. 2022). Satisfying the fourth element – that the harassment by her students could be

² Hudson originally brought three additional claims: (1) violations of her civil rights under 42 U.S.C. § 1981; (2) discrimination on the basis of race and gender, in violation of 42 U.S.C. § 1983; and (3) denial of full participation in a program receiving federal funding, in violation of Title VI of the Civil Rights Act of 1964. But Hudson did not object to dismissal of her § 1981 and Title VI claims. *See Hudson v. Charleston Cnty. Sch. Dist.*, 2025 WL 1922449, at *3 (D.S.C. July 14, 2025). And she acknowledges that her § 1983 claim is analyzed under the same framework as her Title VII claim – meaning these two remaining claims rise and fall together. *See Appellant's Br.* at 10–11; *Love-Lane v. Martin*, 355 F.3d 766, 786 (4th Cir. 2004).

imputed to the defendants – required Hudson to show that the defendants knew or should have known that she was suffering racial or sexual harassment and failed to take prompt remedial action reasonably calculated to end it. *Id.* at 415.

In two thorough and well-reasoned opinions, the magistrate judge and district court concluded that the record evidence provided no basis for a finding that the defendants knew or should have known that Hudson felt she was being racially or sexually harassed, and on that ground, the district court granted summary judgment to the defendants. *See Hudson v. Charleston Cnty. Sch. Dist.* (“*Hudson I*”), 2024 WL 6471186, at *7–9 (D.S.C. July 22, 2024) (Magistrate Judge R&R); *Hudson v. Charleston Cnty. Sch. Dist.* (“*Hudson II*”), 2025 WL 1922449, at *6–8 (D.S.C. July 14, 2025) (District Court opinion). We review the district court’s grant of summary judgment de novo. *Hall v. Sheppard Pratt Health Sys., Inc.*, 155 F.4th 747, 751 (4th Cir. 2025).

On appeal, Hudson raises two challenges to the district court’s finding that the defendants lacked sufficient notice about the alleged racial and sexual harassment. We consider both below.

Hudson first points to the numerous written disciplinary referrals she filed over the course of the year, arguing these forms gave the defendants notice that she was being racially and sexually harassed by her students. The referrals certainly gave the defendants notice of “the students’ poor behavior” towards Hudson and other adults, as the district court acknowledged. *See Hudson II*, 2025 WL 1922449, at *7. But the environment at DJA was not that of a typical school, at which such behavior would be rare. Instead, this kind of disciplinary problem was common at DJA –

which, as noted above, specifically serves students with severe disciplinary issues – and many DJA teachers on the receiving end of similar “disrespect and hostility” from students did not experience such behavior as harassment. *Hudson I*, 2024 WL 6471186, at *8; see *Hudson II*, 2025 WL 1922449, at *7. Moreover, Hudson did not use any of the avenues established by the school or the district to report that she faced harassment. See *Hudson II*, 2025 WL 1922449, at *7; *Hudson I*, 2024 WL 6471186, at *8.

In seeking to impute liability to her employer, Hudson bore a “significant responsibility” to give notice that she was experiencing conduct that amounted to harassment. *EEOC v. Xerxes Corp.*, 639 F.3d 658, 674 (4th Cir. 2011) (explaining that “an employer *cannot* be expected to correct harassment unless the employee makes a concerted effort” to provide such notice). And as we have explained, the unique context of a school environment that serves students with particular needs and challenges must be accounted for in our imputation analysis. See *Webster*, 38 F.4th at 415–17. Given the context here, we agree with the district court and magistrate judge that Hudson’s disciplinary referrals would not have given the defendants notice that Hudson was complaining about *racial and sexual harassment*, rather than reporting expected – though surely difficult – disciplinary problems at DJA.

Second, Hudson contends that the magistrate judge and district court erred by declining to consider an affidavit she filed as an attachment to her opposition to summary judgment. In her affidavit, Hudson asserted for the first time that she regularly – “[a]t least three times a week” – “orally informed” an

assistant principal that students were racially and sexually harassing her. J.A. 709. But the magistrate judge and district court both found that this assertion contradicted Hudson’s prior deposition testimony, and thus that it could not create a genuine factual dispute precluding summary judgment. *Hudson I*, 2024 WL 6471186, at *8 (citing *Hannah v. United Parcel Serv., Inc.*, 72 F.4th 630, 638 (4th Cir. 2023)); *Hudson II*, 2025 WL 1922449, at *4–5 (same).

Here too, we agree with the magistrate judge and district court. From the beginning of this case, Hudson admitted that she never filed a formal or informal harassment complaint and instead, as explained above, relied on her disciplinary referrals to establish notice to the defendants. At her deposition, she testified explicitly to that effect; when asked whether she “ever file[d] a complaint” alleging harassment, Hudson responded: “No. I notified the assistant principal, the principal, the district office [] through those [disciplinary] referrals of what was going on in there, because everybody had access” to the referrals. J.A. 602. Like the magistrate judge and district court, we read this testimony as Hudson acknowledging that she “did not inform school officials of the alleged unlawful harassment perpetrated by students . . . by any means other than through her student disciplinary referrals.” *Hudson II*, 2025 WL 1922449, at *4; *see Hudson I*, 2024 WL 6471186, at *8.

That admission plainly contradicts Hudson’s later-filed affidavit, where she claimed for the first time that she actually *had* told school administrators she was being racially and sexually harassed. The magistrate judge and district court thus correctly applied our rule that “a party who has been examined

at length on deposition cannot raise an issue of fact simply by submitting an affidavit contradicting h[er] own prior testimony.” *Hannah*, 72 F.4th at 638 (brackets omitted).

Because we agree with the magistrate judge and district court’s well-reasoned conclusion that Hudson did not provide the defendants with sufficient notice of racial or sexual harassment to impute liability to them, we affirm the grant of summary judgment to the defendants on Hudson’s remaining claims.

AFFIRMED

**SUMMARY JUDGMENT
IN A CIVIL ACTION, U.S. DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
(JULY 17, 2025)**

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

SHELLY G. HUDSON,

Plaintiff,

v.

CHARLESTON COUNTY SCHOOL DISTRICT;
DANA RODGERS, JENNIFER COKER,

Defendants.

Civil Action No. 2:22-cv-3423-DCN

Before: David C. NORTON,
United States District Judge.

SUMMARY JUDGMENT IN A CIVIL ACTION

The court has ordered that (*check one*)

[. . .]

- Other: summary judgment is entered in favor of Defendants, Charleston County School District, Dana Rogers, Jennifer Coker. Plaintiff, Shelly G. Hudson, shall take nothing of Defendants, as to the complaint filed pursuant to 42 U.S.C. § 2000e and this action is dismissed.

This action was (*check one*)

[. . .]

- decided by the Honorable David C Norton, United States District Judge, presiding. The Court having adopted the Report and Recommendation set forth by the Honorable Mary Gordon Baker, United States Magistrate Judge.

ROBIN L. BLUME, CLERK OF COURT

/s/ H. Cornwell

Signature of Clerk or Deputy Clerk

Date: July 17, 2025

**ORDER ADOPTING REPORT AND
RECOMMENDATION, U.S. DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
(JULY 14, 2025)**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

SHELLY G. HUDSON,

Plaintiff,

v.

CHARLESTON COUNTY SCHOOL DISTRICT;
DANA RODGERS, in Her Individual Capacity; and
JENNIFER COKER, in Her Individual Capacity,

Defendants.

No. 2:22-CV-03423-DCN

Before: David C. NORTON,
United States District Judge.

ORDER

This matter is before the court on Magistrate Judge Mary Gordon Baker's Report and Recommendation ("R&R"), ECF No. 37, on plaintiff Shelly G. Hudson's ("Hudson") motion for partial summary judgment, ECF No. 25, and defendants Charleston County School District ("CCSD"), Dana Rodgers

(“Rodgers”), and Jennifer Coker’s (“Coker”) (collectively, “defendants”) motion for summary judgment, ECF No. 27. For the reasons set forth below, the court adopts the R&R, denies Hudson’s motion for partial summary judgment, and grants defendants’ motion for summary judgment.

I. Background

The R&R ably recites the facts of the case, and the parties do not object to the R&R’s recitation thereof. Therefore, the court will only briefly summarize material facts as they appear in the R&R for the purpose of aiding an understanding of the court’s legal analysis.

This case presents an employment dispute between Hudson, a teacher, and defendants, a school district and its administrators. *See generally* ECF No. 1, Compl. Hudson, a Caucasian woman, worked as a math teacher at Daniel Jenkins Academy (“DJA”), an alternative school part of the CCSD for students with behavioral challenges, from August 2018 through May 2019. ECF Nos. 25-1 at 1; 27-1 at 1. While Hudson worked at DJA, Rodgers was the principal, and Coker was the Director of Alternative Programs and Rodgers’ supervisor. ECF No. 25-1 at 2.

Hudson claims that she was subjected to a hostile working environment while teaching at DJA. Compl. ¶¶ 17–20. She asserts that her students harassed her on a regular basis by calling her a “cr*cker,” a “white b*****”, and a “f***ing white b*****.” *Id.* ¶¶ 41–48. Hudson contends that she was mocked because of her physical appearance, intimidated, and threatened. *Id.* ¶ 85. She does not allege that she was harassed by any CCSD employees. *See generally* Compl. Rather,

Hudson claims that defendants did not adequately respond to student discipline referrals she submitted after these instances of alleged racial and sexual harassment. Compl. ¶ 31. More specifically, she claims that she “made at least [sixty-seven] reports of disciplinary incidents involving her students” and that “more than [twenty] of these reports involved claims of conduct that was, on its face, sexually or racially hostile.” ECF No. 25-1 at 2. According to Hudson, defendants “refused to promptly, effectively, or consistently discipline unruly students.” *Id.* at 4. Hudson asserts that “most of [her] disciplinary referrals resulted in only temporary in-school suspension, which many of the students did not fear.” *Id.* at 3. She contends that defendants did not follow the CCSD’s Progressive Discipline Plan when handling disciplinary referrals and, therefore, “encouraged the abuse and harassment to continue until it became unbearable, and she suffered a ‘breakdown’” on May 16, 2019. *Id.* at 4-9. Hudson then requested leave from her employment, which CCSD granted. ECF No. 27-1 at 6. Although Hudson had a contract to teach at DJA for the 2019-2020 school year, CCSD offered her a position at a different school, which she declined to pursue. *Id.* at 7.

Almost ten months later, on March 10, 2020, Hudson submitted a resignation letter to CCSD explaining that she could “no longer in good faith expect to be able to return to teaching in the foreseeable future” due to her “anxiety, stress, depression, panic attacks, and Post Traumatic Stress Disorder.” ECF No. 25-14.

The South Carolina Human Affairs Commission (“SCHAC”) issued Hudson a Notice of Right to Sue

letter on September 3, 2020. R&R at 4. She then filed this case on October 4, 2022.¹ ECF No.1, Compl. In her complaint, she brings the following causes of action: (1) violation of civil rights under 42 U.S.C. § 1981; (2) race and sex discrimination in violation of civil rights under 42 U.S.C. § 1983; (3) violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e; and (4) violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.* Compl. ¶¶ 68–93. Hudson seeks compensatory, actual, and punitive damages, as well as attorney fees and costs. *Id.*

Pursuant to 28 U.S.C. § 636 and Local Civ. Rule 73.02(B)(2)(a) (D.S.C.), the action was thereafter referred to Magistrate Judge Baker for pretrial proceedings. On March 5, 2024, Hudson filed a motion for partial summary judgment, ECF No. 25, and defendants filed a motion for summary judgment, ECF No. 27,

¹ Typically, a person who wishes to file a suit under Title VII must file a charge with either the Equal Employment Opportunity Commission (“EEOC”) within 180 days after the alleged unlawful employment practice or with the equivalent state agency within 300 days after the alleged unlawful employment practice. 42 U.S.C. § 2000e-5(e)(1). Once the agency issues a right to sue letter, the plaintiff has ninety days to file a lawsuit. *Id.* § 2000e-5(f)(1). Here, Hudson claims that she timely filed her charge with the SCHAC, and that the SCHAC issued a right to sue letter on September 3, 2020. Compl. ¶ 84. Hudson originally filed her lawsuit on November 24, 2020, eighty-two days later. *Hudson v. Charleston Cnty. Sch. Dist.*, No. 2:20-cv-04112-DCN-MGB (D.S.C. filed Nov. 24, 2020). However, her original complaint was dismissed without prejudice by joint stipulation of the parties on April 12, 2022. ECF No. 20, *Hudson*, No. 2:20-cv-04112-DCN-MGB. In their joint stipulation, the parties agreed that the statute of limitations would be tolled so long as the suit was refiled within six months. *Id.* at 1. Hudson refiled her case on October 4, 2022. *See* Compl.

requesting that Hudson's case be dismissed in full. Hudson filed her response to defendants' motion on April 1, 2024. ECF No. 30. Defendants filed their response in opposition to Hudson's motion on April 2, 2024. ECF No. 32. Defendants replied to Hudson's response on April 22, 2024, and Hudson replied to defendants' response on April 23, 2024. ECF Nos. 35; 36.

On July 22, 2024, the magistrate judge issued an R&R in which she recommended that Hudson's motion for partial summary judgment be denied and defendants' motion for summary judgment be granted. *See* R&R. Hudson objected to the R&R on August 19, 2024, ECF No. 40; defendants responded on August 22, 2024, ECF No. 41; and Hudson replied on August 23, 2024, ECF No. 42. As such, this matter is fully briefed and ripe for the court's review.

II. Standard

A. Order on R&R

The recommendation of the magistrate judge carries no presumptive weight, and the responsibility to make a final determination rests with this court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge . . . or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1). The court is charged with conducting a *de novo* review of any portion of the magistrate judge's R&R to which specific, written objections are made. *Id.* A party's failure to object is accepted as agreement with the conclusions of the magistrate judge. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Thus, in the absence of a timely filed, specific objection, the court reviews the R&R only for clear error. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citation omitted). Furthermore, “[a] party’s general objections are not sufficient to challenge a magistrate judge’s findings.” *Greene v. Quest Diagnostics Clinical Lab’s, Inc.*, 455 F. Supp. 2d 483, 488 (D.S.C. 2006) (citation omitted). When a party’s objections are directed to strictly legal issues “and no factual issues are challenged, de novo review of the record may be dispensed with.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982) (citation omitted). Analogously, *de novo* review is unnecessary when a party makes general and conclusory objections without directing the court’s attention to a specific error in a magistrate judge’s proposed findings. *Id.*

B. Summary Judgment

Summary judgment shall be granted if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine dispute as to any material fact and that the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). “By its very terms, this standard provides that the mere existence of some alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no genuine issue of material fact.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247–48 (1986). “Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment.” *Id.* at 248. “[S]ummary judgment will not lie if the dispute about a material fact is ‘genuine,’ that is, if the evidence is such that a reasonable jury could

return a verdict for the nonmoving party.” *Id.* “[A]t the summary judgment stage the judge’s function is not himself to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” *Id.* at 249. In so doing, the court must view the evidence in the light most favorable to the non-moving party and draw all inferences in its favor. *Id.* at 255.

III. Discussion

The magistrate judge recommended denying Hudson’s motion for partial summary judgment and granting defendants’ motion for summary judgment.

Hudson objects and argues that the court should deny defendants’ motion for summary judgment as to her claims under (1) Title VII, and (2) Section 1983, for race and sex discrimination. ECF No. 40 at 4–5. Hudson does not object to the R&R’s recommendation to dismiss her claims under (1) Section 1981, or (2) Title VI. *See generally* ECF No. 40. Hudson specifically objects that (1) her sworn declaration was not a sham affidavit, and that (2) she did sufficiently establish a genuine issue of material fact in support of the required element of imputing liability for the alleged unlawful harassment to her employer. *Id.* at 5. The court will analyze each of Hudson’s objections in turn.

A. Whether Hudson’s Declaration was a “Sham Affidavit”

Hudson objects to the magistrate judge’s finding that Hudson’s declaration, ECF No. 30-1, Hudson Decl., was a “sham affidavit” and therefore does not create a genuine dispute of material fact. *See* R&R at

17. The court agrees with the magistrate judge's findings.

Hudson testified in her deposition:

Q. Did you ever file a complaint with the district's employee relations department about alleged sexual or racial harassment?

A. No. I notified the assistant principal, the principal, the district office, everything, through those referrals of what was going on in there, because everybody had access to that.

ECF No. 27-4, Hudson Depo. at 17:19–25.

Hudson stated in her declaration:

[a]t least three times a week, I orally informed my assistant principal at DJA, Bernard Scott, that I was being sexually and racially harassed by students. I would repeatedly ask him to address the issues raised in my referrals and what could be done to stop or reduce my abuse.

Hudson Decl. ¶ 51.

The alleged contradiction between Hudson's deposition and declaration is relevant in determining whether there is a genuine issue of material fact regarding the defendants' knowledge. Specifically, whether Hudson adequately informed defendants she was being harassed.

It is well-established within this circuit that a party may not file a "sham affidavit" in order to create an issue of fact where the party has been examined under oath during the discovery period, as is the case

here. See *Barwick v. Celotex Corp.*, 736 F.2d 946, 960 (4th Cir. 1984) (holding the sham affidavit did not create a genuine dispute of material fact). Further, “a party who has been examined at length on deposition [cannot] raise an issue of fact simply by submitting an affidavit contradicting [her] own prior testimony,’ because to allow that ‘would greatly diminish the utility of summary judgment as a procedure for screening out sham issues of fact.” *Hannah v. United Parcel Serv., Inc.*, 72 F.4th 630, 638 (4th Cir. 2023) (quoting *Barwick*, 736 F.2d at 960); see also *Stevenson v. City of Seat Pleasant*, 743 F.3d 411, 422 (4th Cir. 2014).

Hudson maintains her declaration is not improper under the “sham affidavit” rule, arguing the mere fact that an affidavit or declaration is self-serving does not make it a “sham affidavit.” ECF No. 40 at 7. Hudson further argues there is not a “bona fide inconsistency” between her declaration and her deposition testimony, so the sham affidavit rule does not apply. *Id.* at 8. She contends any discrepancy about whether she notified defendants only via disciplinary referrals is due to defendants asking a “very specific question” during the deposition (when she answered she had not filed a formal harassment complaint with CCSD’s employee relations department and only informed defendants via disciplinary referrals.) *Id.* at 9. She alleges her declaration is consistent with her testimony, as she testified that in addition to the written referrals, she orally informed the assistant principal about her harassment. *Id.* at 9–10.

Defendants counter Hudson’s argument by arguing that her declaration is a “sham affidavit” that contradicts her sworn deposition testimony. ECF No. 41 at

3. Defendants argue the contradiction is material because it refutes her testimony that she did not inform school officials of the alleged unlawful harassment perpetrated by students at DJA by any means other than through her student disciplinary referrals. *Id.* They argue the question in her deposition did not restrict her response to only written complaints and that her answer affirms that Hudson notified her assistant principal, and others, of the alleged harassment only through her disciplinary referrals. ECF No. 41 at 4–5.

The magistrate judge agreed with defendants, finding that “the record conclusively establishes that [Hudson] never filed a formal or informal harassment complaint and never told Rodgers (or any other administrator) that she felt her students were harassing her because of her sex and race.” R&R at 19. The magistrate found Hudson’s declaration contradicted her deposition testimony. *Id.* It was only in her declaration she claimed, for the first time, that she orally informed the principal she was being sexually and racially harassed. *Id.*

The court agrees with the magistrate judge’s analysis. There is a clear contradiction between Hudson’s deposition testimony, and her subsequent declaration which is material as to whether CCSD was on notice, and whether they knew Hudson considered the student’s actions as harassment. The record shows Hudson did not make a concerted effort to inform CCSD that the conduct of the students in her sixty-seven disciplinary referrals went beyond the conduct other teachers reported in the 1,473 disciplinary referrals CCSD received within the school year. ECF No. 40 at 14. The CCSD administration is not

expected to comb through each and every one of the 1,473 disciplinary notices, to speculate as to whether a teacher is simply submitting a student for discipline or whether that individual teacher feels as if they are being harassed.

It is only in Hudson's subsequent declaration she brings up, for the first time, any form of communication or notice outside of the student disciplinary referrals, where she alleges, she orally informed the assistant principal she felt she was being harassed. Hudson cannot, after being examined at deposition, "raise an issue of fact simply by submitting an affidavit contradicting [her] own prior testimony." *See Hannah*, 72 F.4th at 638. Here, the court agrees with the magistrate judge that the affidavit is not supported by any other evidence in the record and is contradicted by Hudson's deposition testimony. *See R&R* at 16. As the only mention of notification outside of the disciplinary referrals came from Hudson's affidavit, that contradicted her previous testimony, the court finds such a "sham affidavit" does not create a genuine dispute of material fact. *See Barwick*, 736 F.2d 960. As such, the court adopts the R&R and grants summary judgment with respect to this claim.

B. Whether Hudson Sufficiently Established a Genuine Issue of Material Fact Regarding Imputing Liability to Defendants

Next, Hudson objects to the magistrate judge's recommendations on her causes of action under Title VII and Section 1983. ECF No. 40 at 4. The magistrate judge recommended that the court grant defendants' motion and deny Hudson's motion because Hudson failed to present evidence showing defendants had knowledge that she felt she was being harassed by the

students, specifically that Hudson did not meet the required element of imputing liability to defendants. R&R at 14. Hudson argues the magistrate judge erred because defendants did have knowledge through her submitting discipline notices and orally informing them. ECF No. 40 at 14. The court will first look at what elements need to be met to prove her claims, then analyze the level of knowledge defendants had.

1. Title VII and Section 1983 Claims

To establish a *prima facie* Title VII or Section 1983² hostile work environment claim, Hudson must demonstrate four elements: (1) unwelcome conduct; (2) based on her race and/or sex; (3) which is sufficiently severe or pervasive to alter the conditions of her employment and create an abusive working environment; and, (4) which is imputable to [d]efendants. *See Boyer-Liberto v. Fontainebleau Corp.*, 786 F.3d 264, 277 (4th Cir. 2015) (en banc).

Here, there is no dispute that Hudson experienced unwelcome conduct. *See generally* ECF Nos. 25-1; 27-

² The court can analyze the merits of Hudson’s Section 1983 claim under the standards applicable to Title VII claims. *See Nelson v. Beaufort Cnty. Sheriff’s Off.*, 2021 WL 6880646, at *1 (D.S.C. Nov. 23, 2021), *report and recommendation adopted*, 2022 WL 407408 (D.S.C. Feb. 10, 2022) (“The Fourth Circuit has held that a claim brought pursuant to § 1983 should be analyzed consistent with those principles that govern consideration of Title VII claims.”); *Thomas v. Dillon Sch. Dist. Four*, 2015 WL 5554508, at *1 (D.S.C. July 24, 2015), *report and recommendation adopted*, 2015 WL 5554554 (D.S.C. Sept. 21, 2015) (“The standards applicable to lawsuits under Title VII, § 1981, and equal protection claims under § 1983 are essentially the same, and the same case law is used to evaluate claims under those statutes.”).

1; 30; 32; 35; 36. The parties neither dispute that Hudson experienced unwelcome harassment nor do they object to the magistrate judge's finding that Hudson has demonstrated the first, second, and third elements of her claim. *See* R&R at 8–14; ECF No. 40 at 2, *see generally* ECF Nos. 25-1; 27-1; 30; 32; 35; 36; 40; 41; 42. As such, the court reviews the magistrate judge's findings on the first three elements for clear error. *See Diamond*, 416 F.3d at 315. Finding none, the court adopts the magistrate judge's reasoning on the first three elements and proceeds to consider Hudson's objections to the magistrate judge's findings on the fourth and final element, regarding imputation of liability to defendants.

2. Defendants Knowledge of Student Conduct Rendering the Conduct Imputable

The magistrate judge recommended granting summary judgment on Hudson's sex and race harassment claims. R&R at 19. The magistrate judge found that Hudson failed to produce evidence from which the court could infer a genuine issue of fact regarding whether defendants were put on notice that Hudson felt sexually and/or racially harassed by her students. *Id.* Hudson objects to this conclusion and argues she has presented evidence sufficient to create a genuine issue of material fact as to defendants' knowledge of the harassment. ECF No. 40 at 13.

This circuit uses a negligence standard when deciding whether an employer can be held liable for third-party harassment under Title VII or Section 1983, and "an employer cannot avoid Title VII liability for [third-party] harassment by adopting a 'see no evil, hear no evil strategy.'" *Freeman v. Dal-Tile Corp.*, 750

F.3d 413, 422–23 (4th Cir. 2014) (alteration in original) (quoting *Ocheltree v. Scollon Prods., Inc.*, 335 F.3d 325, 334 (4th Cir. 2003) (en banc)). A plaintiff must establish two prongs for third-party harassment to be imputable to his or her employer: “the employer [1] knew or should have known of the harassment and [2] failed ‘to take prompt remedial action reasonably calculated to end the harassment.’” *Id.* at 423 (quoting *Amirmokri v. Balt. Gas & Elec. Co.*, 60 F.3d 1126, 1131 (4th Cir. 1995)). “[A]n employer cannot be expected to correct harassment unless the employee makes a concerted effort to inform the employer that a problem exists under its reasonable procedures. Thus, employee[s] [] bear[] significant responsibility in notifying the employer.” *E.E.O.C. v. Xerxes Corp.*, 639 F.3d 658, 674 (4th Cir. 2011) (internal quotation marks, emphasis, and citations omitted).

Hudson argues that there is a genuine issue of material fact as to whether defendants were on notice of the hostile work environment. ECF No. 40 at 13. She claims that she made sixty-seven disciplinary referrals, between October 15, 2018 and May 16, 2019, to defendants about students harassing her. *See* ECF No. 25-6. Hudson claims that the content of her disciplinary referrals should have put defendants on notice of her alleged harassment. ECF No. 25-1 at 12–16. She references her declaration where she stated that “[a]t least three times a week, I orally informed my assistant principal at DJA, Bernard Scott, that I was being sexually and racially harassed by students. I would repeatedly ask him to address the issues raised in my referrals and what could be done to stop or reduce my abuse.” *See* Hudson Decl. ¶ 51. She also argues defendants were put on notice as to DJA’s poor

performance as a school overall, evidenced by reports from the Charleston Teacher's Alliance, and Rogers' "needs improvement" performance review. ECF No. 40 at 15. Thus, Hudson argues that defendants had actual knowledge of the alleged abuse. *Id.* at 16.

Defendants argue that Hudson failed to satisfy her burden of demonstrating that she placed the employer on proper notice of her unlawful harassment allegations under Title VII or Section 1983. ECF No. 41 at 6. In their memo in support of summary judgment, defendants argued that "[Hudson] has admitted that she never contacted CCSD's Employee Relations department to complain about the alleged harassment, and never requested that she be moved to another school during the alleged harassment." ECF No. 27-1 at 16. Defendants further noted that Hudson admitted to "only ma[king] complaints about the actions of the students through her disciplinary referrals," and that she only filed complaints with the South Carolina Human Affairs Commission after she left DJA. *Id.* at 17.

The magistrate judge emphasized that Hudson never filed a report through the CCSD's specific reporting process, never informed her supervisor that she felt she was being harassed, and never requested a transfer to another school or otherwise indicated that she was incapable of performing her duties because she felt harassed in her work environment. R&R at 19 (citing ECF No. 27-4 at 20). Instead, she left school one day and did not return, only then informing defendants that she felt she was being harassed and was so emotionally disturbed that she could no longer teach. *Id.* (citing ECF No. 25-2 at 2). As such, the magistrate judge agreed with defendants

that liability cannot be imputed in this case, as “the record conclusively establishes that [Hudson] never filed a formal or informal harassment complaint and never told Rodgers (or any other administrator) that she felt her students were harassing her because of her sex and race.” R&R at 15–16 (citing to ECF No. 27-4 at 17). The magistrate judge explained Hudson’s student disciplinary referrals were not sufficient to put the defendants on notice of Hudson’s harassment. R&R at 17–18. DJA was not a typical workplace, and the DJA students treated many of the teachers with a similar level of disrespect. *Id.* As such, an administrator reading Hudson’s student discipline referrals would not necessarily know that Hudson was complaining of sexual and racial harassment. *Id.*

The court finds that, through the evidence Hudson points to in her objections, Hudson has undoubtedly shown that defendants were aware of the students’ poor behavior directed at teachers. *Id.* at 20. However, as the magistrate judge pointed out, some of the teachers at the school found this conduct to be harassment, and others did not. R&R at 18. Thus, even if CCSD leadership or another administrator witnessed the students’ conduct, or read about the conduct in Hudson’s referrals, nothing would have put them on notice of the fact that Hudson, herself, felt she was being harassed. Hudson bore a “significant responsibility in notifying [her] employer” if she felt that the conduct amounted to harassment. *Xerxes Corp.*, 639 F.3d at 674 (quoting *Howard v. Winter*, 446 F.3d 559, 567 (4th Cir. 2006)). “[A]n employer cannot be expected to correct harassment unless the employee makes a concerted effort to inform the employer that a problem exists under its reasonable procedures.” *Id.*

The court finds that Hudson's disciplinary referrals were not enough to put defendants on notice, that the magistrate judge was correct to find that there is no genuine dispute of material fact over whether the students' behavior can be imputed to defendants, and summary judgment is appropriate.³ As such, the court adopts the R&R and grants defendants' motion for summary judgment with respect to this claim.⁴

IV. Conclusion

For the reasons set forth above, the court ADOPTS the R&R in full, DENIES Hudson's motion for partial summary judgment and GRANTS defendants' motion for summary judgment.

AND IT IS SO ORDERED.

/s/ David C. Norton
United States District Judge

³ Defendants also wish to preserve their *Faragher-Ellerth* defense to Hudson's claims for sex or race harassment, which bars claims where the employer demonstrates that (1) it exercised reasonable care to prevent and promptly correct harassment, and (2) that plaintiff unreasonably failed to take advantage of preventive or corrective opportunities. ECF No. 41 at 9. Defendants Coker and Rodgers, sued in their individual capacity, also wish to preserve defenses of qualified immunity against Hudson's claim under Section 1983. ECF No. 41 at 10.

⁴ As the court finds that defendants had no actual or constructive knowledge of the harassment, the court declines to reach the question of whether defendants' response was reasonably calculated to end the harassment.

App.27a

July 14, 2025

Charleston, South Carolina

**MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATION, U.S. DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
(JULY 22, 2024)**

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE DISTRICT OF SOUTH
CAROLINA, CHARLESTON DIVISION

SHELLY G. HUDSON,

Plaintiff,

v.

CHARLESTON COUNTY SCHOOL DISTRICT;
DANA RODGERS, in Her Individual Capacity; and
JENNIFER COKER, in Her Individual Capacity,

Defendants.

Case No. 2:22-cv-03423-DCN-MGB

Before: Mary Gordon BAKER,
United States Magistrate Judge.

REPORT AND RECOMMENDATION

Plaintiff filed this action alleging race and sex discrimination in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”), Title VI of the Civil Rights Act of 1964 (“Title VI”), 42 U.S.C. § 1981 (“Section 1981”), and 42 U.S.C. § 1983 (“Section 1983”). (Dkt. No. 1.) This matter is now before the Court upon

Plaintiff's Motion for Partial Summary Judgment (Dkt. No. 25) and Defendants' Motion for Summary Judgment (Dkt. No. 27). Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1) and Local Rule 73.02(B)(2)(g), D.S.C., all pretrial matters in employment discrimination cases are referred to a United States Magistrate Judge for consideration. For the reasons set forth below, the undersigned RECOMMENDS that Plaintiff's Motion for Partial Summary Judgment (Dkt. No. 25) be DENIED, and that Defendants' Motion for Summary Judgment (Dkt. No. 27) be GRANTED.

FACTUAL SUMMARY

This lawsuit arises from Plaintiff's employment with Defendant Charleston County School District ("the District"). (*See generally* Dkt. No. 1.) Plaintiff, a Caucasian woman, worked as a math teacher at Daniel Jenkins Academy ("DJA"), an alternative school for students with behavioral challenges, from August 2018 through May 2019. (Dkt. No. 25-1 at 1; Dkt. No. 27-1 at 1.)¹ Prior to starting at DJA, Plaintiff had worked for many years at schools with at-risk students and students who had academic and behavioral problems. (Dkt. No. 27-4 at 2.) While Plaintiff worked at DJA, Defendant Dana Rodgers was the principal. (Dkt. No. 25-1 at 1.) Quintella Middleton and Bernard Scott were the assistant principals. (Dkt. No. 25-1 at 1.) Defendant Jennifer Coker was the Director of Alternative Programs. (Dkt. No. 25-1 at 2.) She also

¹ This Report and Recommendation reflects the pagination assigned by the Court's automated docketing system.

served as Defendant Rodgers' supervisor. (Dkt. No. 25-1 at 2.)

Plaintiff claims that she was subjected to a hostile working environment while teaching at DJA. (Dkt. No. 1; Dkt. No. 25-1 at 2.) Plaintiff asserts that her students harassed her on a regular basis by calling her a "cracker," a "white b****", and a "f***ing white b****." (Dkt. No. 1; Dkt. No. 25-1 at 2.) Plaintiff contends that she was also mocked because of her physical appearance, intimidated, and threatened. (Dkt. No. 1; Dkt. No. 25-1 at 2.) Plaintiff does not allege that she was harassed by any District employees. (Dkt. Nos. 1; Dkt. No. 25-1.) Rather, Plaintiff claims that Defendants did not adequately respond to student discipline referrals she submitted after these instances of racial and sexual harassment. (Dkt. Nos. 1; Dkt. No. 25-1.) More specifically, Plaintiff claims that she "made at least 67 reports of disciplinary incidents involving her students" and that "more than 20 of these reports involved claims of conduct that was, on its face, sexually or racially hostile." (Dkt. No. 25-1 at 2.) On at least one occasion, Plaintiff suffered minor injuries while attempting to break up a fight. (Dkt. No. 27-1 at 6, referencing Dkt. No. 27-4 at 4.) According to Plaintiff, Defendants nonetheless "refused to promptly, effectively, or consistently discipline unruly students. . . ." (Dkt. No. 25-1 at 4.) Plaintiff asserts that "most of [her] disciplinary referrals resulted in only temporary in-school suspension, which many of the students did not fear. . . ." (Dkt. No. 25-1 at 3.) Plaintiff contends that Defendants did not follow the District's Progressive Discipline Plan when handling disciplinary referrals and, therefore, "encouraged the abuse and harassment

to continue until it became unbearable and Plaintiff suffered a ‘breakdown.’” (Dkt. No. 25-1 at 4.)

This “breakdown” occurred on May 16, 2019. (Dkt. No. 25-1 at 9.) Plaintiff claims that she submitted numerous disciplinary referrals for student behavior on that day, and then, while teaching, she had “a whiteout [which] then turned into a panic attack.” (Dkt. No. 25-1 at 9, referencing Dkt. No. 25-2 at 2.) Plaintiff testified that after her panic attack, “the kids went to lunch, I grabbed my purse, left everything behind, all my belongings, and went out the door.” (Dkt. No. 25-2 at 2.) Plaintiff did not return to work. (Dkt. No. 27-1 at 6.) Instead, Plaintiff sought counseling and requested leave, which the District granted. (Dkt. No. 27-1 at 6.)

Although Plaintiff had a contract to teach at DJA for the 2019-2020 school year, the District offered her a position at a different school while she was on summer break. (Dkt. No. 27-1 at 7, referencing Dkt. No. 27-4 at 6.) According to Plaintiff, she had an appointment to speak with the principal at the other school, but suffered a panic attack as she approached the school. (Dkt. No. 27-4 at 7.) She called the principal and told him she could not make the appointment, and that “there was probably no way [she] could teach.” (Dkt. No. 27-4 at 7.)

On March 10, 2020², Plaintiff submitted a resignation letter to the District explaining that she could “no longer in good faith expect to be able to

² It is unclear why Plaintiff submitted her resignation letter on March 10, 2020, given that she stopped teaching on May 16, 2019. The record indicates that she may have been on medical leave. (Dkt. No. 25-13; Dkt. No. 27-1 at 7.)

return to teaching in the foreseeable future” due to her “anxiety, stress, depression, panic attacks, and Post Traumatic Stress Disorder.” (Dkt. No. 25-14.) Plaintiff testified that she has not worked since May 16, 2019, but receives retirement benefits and payments from the Social Security Administration. (Dkt. No. 27-4 at 8.)

PROCEDURAL HISTORY

Plaintiff filed a charge with the South Carolina Human Affairs Commission (“SCHAC”) claiming that she suffered harassment from August 2018 through May 2019. SCHAC issued a Notice of Right to Sue letter on September 3, 2020. (Dkt. No. 1 at 20.) Plaintiff then filed this civil action on October 4, 2022. (Dkt. No. 1.)³ In her Complaint, she brings causes of action alleging discrimination based on a racially and sexually hostile work environment in violation of

³ Typically, a person who wishes to file a suit under Title VII must file a charge with either the Equal Employment Opportunity Commission (“EEOC”) within 180 days after the alleged unlawful employment practice or with the equivalent state agency within 300 days after the alleged unlawful employment practice. 42 U.S.C. § 2000e-5(e)(1). Once the agency issues a right to sue letter, the plaintiff has ninety days to file a lawsuit. *Id.* § 2000e-5(f)(1). In this case, Plaintiff claims that she timely filed her charge with the SCHAC, and that the SCHAC issued a right to sue letter on September 3, 2020. (Dkt. No. 1.) Plaintiff originally filed her lawsuit in this Court on November 24, 2020, eighty-two days later. (Case No. 2:20-cv-04112-DCN-MGB). However, her original complaint was dismissed without prejudice by joint stipulation of the parties on April 12, 2022. (Dkt. No. 20, Case No., 2:20-cv-04112-DCN-MGB). In their joint stipulation, the parties agreed that the statute of limitations would be tolled so long as the suit was refiled within six months. (*Id.* at 1.) Plaintiff refiled her case on October 4, 2022. (Dkt. No. 1.)

Section 1981, Section 1983, Title VII, and Title VI. (*Id.*) Plaintiff seeks compensatory, actual, and punitive damages, as well as attorney fees and costs. (*Id.*)

On March 5, 2024, Plaintiff filed a Partial Motion for Summary Judgment. (Dkt. No. 25.) On that same day, Defendants filed a Motion for Summary Judgment, requesting that Plaintiff's case be dismissed in full. (Dkt. No. 27.) Plaintiff filed her response to Defendants' motion on April 1, 2024. (Dkt. No. 30.) Defendants filed their response in opposition to Plaintiff's motion on April 2, 2024. (Dkt. No. 32.) Defendants replied to Plaintiff's response on April 22, 2024, and Plaintiff replied to Defendants' response on April 23, 2024. (Dkt. Nos. 35, 36.) As such, the motions before the Court have been fully briefed and are ripe for disposition.

LEGAL STANDARD

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, summary judgment "shall" be granted "if the movant shows that there is no genuine dispute as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "Facts are 'material' when they might affect the outcome of the case, and a 'genuine issue' exists when the evidence would allow a reasonable jury to return a verdict for the nonmoving party." *The News & Observer Publ'g Co. v. Raleigh-Durham Airport Auth.*, 597 F.3d 570, 576 (4th Cir. 2010) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

In ruling on a motion for summary judgment, "the nonmoving party's evidence is to be believed, and

all justifiable inferences are to be drawn in that party's favor.” *Hunt v. Cromartie*, 526 U.S. 541, 552 (1999) (quoting *Anderson*, 477 U.S. at 255); *see also Perini Corp. v. Perini Constr., Inc.*, 915 F.2d 121, 123–24 (4th Cir. 1990). Although the Court must “draw all justifiable inferences in favor of the nonmoving party, the nonmoving party must rely on more than conclusory allegations, mere speculation, the building of one inference upon another, or the mere existence of a scintilla of evidence.” *Sandlands C & D LLC v. Cty. of Horry*, 737 F.3d 45, 54 (4th Cir. 2013) (citing *Dash v. Mayweather*, 731 F.3d 303, 311 (4th Cir. 2013)). “Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted.” *Anderson*, 477 U.S. at 248. “When faced with cross-motions for summary judgment, the court must review each motion separately on its own merits to determine whether either of the parties deserves judgment as a matter of law.” *Rossignol v. Voorhaar*, 316 F.3d 516, 523 (4th Cir. 2003) (internal citations omitted).

DISCUSSION

Defendants argue that Plaintiff's case should be dismissed in full. (*See generally* Dkt. No. 27-1.) According to Defendants, Plaintiff's claims fail because: (1) she cannot show that the harassment she experienced was based on her sex or race, was severe or pervasive, and was imputable to Defendants; (2) Section 1983 is the exclusive remedy for a violation of the rights guaranteed by Section 1981; (3) Plaintiff's Section 1983 claim is barred by the doctrine of qualified immunity; and (4) Plaintiff's Title VI claim is

inadequately pled. (*See generally id.*) By contrast, Plaintiff asserts that “there is no doubt that Plaintiff was subjected to a sexually and racially hostile workplace, with severe and pervasive abuse for which Defendants may be held liable.” (Dkt. No. 25-1 at 3.) Plaintiff therefore contends that she “is entitled to partial summary judgment as to liability on her claims against Defendants.” (*Id.*)

For the reasons set forth below, the undersigned finds that Defendants are entitled to summary judgment on each of Plaintiff’s claims. The undersigned therefore RECOMMENDS that Defendants’ motion (Dkt. No. 27) be GRANTED, and that Plaintiff’s motion (Dkt. No. 25) be DENIED.

I. Abandoned Claims

At the outset, Plaintiff’s briefings fail to set forth any meaningful arguments in response to Defendants’ contentions that: (1) Plaintiff’s Section 1981 claim is barred because Section 1983 “provides the exclusive remedy for any violation of the rights guaranteed in [Section 1981],” and (2) Plaintiff’s Title VI claims must be dismissed because Plaintiff has failed to allege or otherwise demonstrate that Defendants received federal financial assistance for the primary purpose of employment, or that Plaintiff was the intended beneficiary of such assistance. (Dkt. No. 35 at 2; *see also* Dkt. Nos. 25-1, 30, 36.) The undersigned therefore RECOMMENDS that Plaintiff’s Section 1981 claims and Title VI claims should be DISMISSED.⁴

⁴ Even if Plaintiff’s Section 1981 claims were not dismissed on this basis, such claims would fail for the reasons set forth in Section II below. *See Gairola v. Va. Dep’t of Gen. Servs.*, 753 F.2d 1281 (4th Cir. 1985) (“Under Title VII and either § 1981 or

See Staton v. Arcer, No. 8:22-cv-02545-BHH-JDA, 2023 WL 5338037, at *6 (D.S.C. July 31, 2023) (noting that plaintiff's failure to address defendant's argument in response to summary judgment motion justifies dismissal of the claim), *adopted*, 2023 WL 5333286 (D.S.C. Aug. 18, 2023); *Jones v. Family Health Ctr., Inc.*, 323 F. Supp. 2d 681, 690 (D.S.C. 2003) (noting that a claim not addressed in plaintiff's opposition memorandum had been abandoned); *Sawyers v. United Parcel Serv., Inc.*, C/A No. 1:18-cv-1037, 2019 WL 4305771, at *3 (M.D.N.C. Sept. 11, 2019) (collecting cases showing that "[t]his district and others within the Fourth Circuit agree that failing to respond to an argument constitutes an abandonment of a claim").

Further, Plaintiff's motion for partial summary judgment references a constructive discharge claim that is not included anywhere in the Complaint. (*See generally* Dkt. Nos. 1, 25-1.) It is well-settled that a plaintiff may not amend her complaint through briefing or oral advocacy. *Southern Walk at Broadlands Homeowner's Ass'n, Inc. v. OpenBand at Broadlands, LLC*, 713 F.3d 175, 184 (4th Cir. 2013); *see also Walton v. Harker*, 33 F.4th 165, 176 (4th Cir. 2022) ("[Plaintiff] cannot pursue claims that she failed to plead and only raised for the first time in response to a motion for summary judgment."). What is more, Plaintiff testified that the only claims she is pursuing in this civil action are hostile work environment claims based on sex and race. (Dkt. No. 27-4 at 24.)

§ 1983, the elements of the required *prima facie* case [for employment discrimination] are the same."); *Bryant v. Bell Atl. Maryland, Inc.*, 288 F.3d 124, 133 n.7 (4th Cir. 2002) ("The required elements of a *prima facie* case of employment discrimination are the same under Title VII and Section 1981.").

Accordingly, Plaintiff's constructive discharge claim is not properly before the Court and cannot be considered. See *Eleazu v. United States Army Network Enter. Ctr.-Natick*, No. 3:20-cv-02576-JMC, 2021 WL 4272596, at *7 (D.S.C. Sept. 21, 2021) ("These claims cannot be considered because they were never properly pleaded in Plaintiff's Complaint."); *Graves v. Haywood*, No. 5:19-CT-3043-FL, 2022 WL 945598, at *4 (E.D.N.C. Mar. 29, 2022) ("[T]he court does not consider claims plaintiff asserts for the first time in her summary judgment briefing.").

II. Title VII Claims

Turning to Plaintiff's remaining claims, Plaintiff alleges that Defendants subjected her to a racially and sexually hostile work environment in violation of Title VII. (See *generally* Dkt. No. 1.) Because race-based and sex-based hostile work environment claims are anchored in the same statutory text, they are reviewed under the same standard. See *National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 116 n.10 (2002) (citing *Faragher v. Boca Raton*, 524 U.S. 775, 786–77, 787 n.1 (1998)); see also *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 26 (1993) (Ginsburg, J., concurring) ("Title VII declares discriminatory practices based on race, gender, religion, or national origin equally unlawful.").

Under this standard, "[a] hostile environment exists when the workplace is permeated with discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment." *Boyer-Liberto v. Fontainebleau Corp.*, 786 F.3d 264, 277 (4th Cir. 2015) (en banc). Thus, to

establish a *prima facie* hostile work environment claim, Plaintiff must show evidence of: (1) unwelcome conduct; (2) based on her race and/or sex; (3) which is sufficiently severe or pervasive to alter the conditions of her employment and create an abusive working environment; and (4) which is imputable to Defendants. *See id.* Here, there is no dispute that Plaintiff experienced unwelcome conduct. (*See generally* Dkt. Nos. 25-1, 27-1, 30, 32, 35, 36.) The undersigned considers the remaining three elements, below.

1. Based on Race or Sex

To establish the second prong of a hostile work environment claim, Plaintiff must show that she would not have been a victim of harassment *but for* her race and/or sex. *See Gilliam v. S.C. Dep’t of Juvenile Justice*, 474 F.3d 134, 142 (4th Cir. 2007) (citing *Causey v. Balog*, 162 F.3d 795, 801 (4th Cir. 1998)). With respect to Plaintiff’s race-based harassment claims, the Court “may infer that harassment is based on race when the plaintiff suffered harassment more often than others of different races or suffered harassment of a kind likely to be motivated by race.” *McIver v. Bridgestone Americas, Inc.*, 42 F.4th 398, 409 (4th Cir. 2022) (referencing *EEOC v. Sunbelt Rentals, Inc.*, 521 F.3d 306, 318 (4th Cir. 2008)). However, a plaintiff is not permitted to rely on her own “conjecture” to impute a racial character to what appears to be neutral harassment. *Id.* (quoting *Hawkins v. PepsiCo, Inc.*, 203 F.3d 274, 280–81 (4th Cir. 2000)). As for Plaintiff’s sex-based harassment claims, the Fourth Circuit has explained that the “critical issue” when analyzing the second prong of a sex-based discrimination claim is “whether members of one sex are exposed to disadvantageous terms or con-

ditions of employment to which members of the other sex are not exposed.” *Ocheltree v. Scollon Prods., Inc.*, 335 F.3d 325, 331–32 (4th Cir. 2003) (internal quotation marks and citations omitted). Further, “a trier of fact may reasonably find discrimination, for example, when a woman is the individual target of open hostility because of her sex, or when a female victim is harassed in such sex-specific and derogatory terms . . . as to make it clear that the harasser is motivated by general hostility to the presence of women in the workplace.” *Id.* (internal quotation marks and citations omitted).

Defendants claim that Plaintiff cannot show the unwelcome conduct she experienced was because of her race and/or sex. (Dkt. No. 27-1 at 13, 19–20.) In support of this contention, Defendants assert that “the uncontroverted evidence indicates that words like ‘f***’ and ‘b*****’ are, regrettably, used by students throughout secondary schools in [the District] to refer to all teachers, and not just female teachers.” (*Id.* at 13, referencing Dkt. No. 27-8 at 3.) Defendants further assert that outbursts from students at DJA were “more about what’s happening to the student” and were not based on their feelings about the adults to whom they were speaking. (*Id.*, referencing Dkt. No. 27-8 at 6–7.) Defendants contend that “Plaintiff’s own testimony undercuts her effort to demonstrate that the students were motivated by anti-white animus [because] Plaintiff testified that the students – who were black – also subjected African-American teacher’s aides to racial abuse.” (*Id.* at 20.)

The record before the Court certainly contains evidence indicating that DJA students made sexually and racially disparaging remarks to each other, and

to male and female teachers and administrators of various races. (Dkt. No. 25-2; Dkt. No. 25-3; Dkt. No. 25-4; Dkt. No. 25-5; Dkt. No. 25-6; Dkt. No. 27-2; Dkt. No. 27-4; Dkt. No. 27-5; Dkt. No. 27-6; Dkt. No. 27-7; Dkt. No. 27-8.) However, the record does not conclusively establish that the specific epithets and remarks directed at Plaintiff were also made to students, teachers, or administrators who were male and/or of a different race than Plaintiff. Further, the nature of the comments made to Plaintiff (*i.e.*, “cracker,” “f***ing white b****”) are clearly racially and sexually charged. As such, a reasonable juror could conclude that Plaintiff would not have experienced certain unwelcome conduct *but for* her race and/or sex. Plaintiff can therefore establish the second prong of her hostile work environment claims.

2. Sufficiently Severe or Pervasive

When considering the third element of a hostile work environment claim—the degree of hostility or abuse to which a plaintiff was exposed—the Court must “examin[e] the totality of the circumstances.” *Spriggs v. Diamond Auto Glass*, 242 F.3d 179, 184 (4th Cir. 2001). Relevant considerations “include the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance.” *Id.* The Fourth Circuit recently noted that “[t]he status of the harasser is also a ‘significant factor’ to be considered; harassment by a supervisor tends to be more serious, while harassment by a co-equal is less serious.” *McIver*, 42 F.4th at 408 (referencing *Boyer-Liberto*, 786 F.3d at 278).

Further, the “severe or pervasive” element of a hostile work environment claim includes both subjective and objective components. *See Sunbelt Rentals, Inc.*, 521 F.3d at 315. Thus, Plaintiff must show that she subjectively perceived the environment to be abusive, and that the conduct was such that “a reasonable person in [Plaintiff’s] position” would have found the environment objectively hostile or abusive. *Id.*

Defendants contend that Plaintiff cannot establish that she experienced harassment so severe or pervasive as to alter the conditions of her employment and create an abusive working environment. (Dkt. No. 27-1 at 14–16, 19–20.) According to Defendants, Plaintiff has failed to present evidence that vulgar language and derogatory comments were directed towards her, specifically, on a daily basis. (*Id.* at 15.) Rather, Defendants contend that the record shows approximately 16 incidents over the course of eight months during which her students made problematic comments to her. (*Id.*, referencing Dkt. No. 27-2.) Defendants further argue that Plaintiff ignores the unique setting of DJA—an alternative school for students with behavioral issues—and her authority over her students when claiming that she experienced harassment that was sufficiently severe and pervasive. (*Id.* at 15–16, 19–20; Dkt. No. 32 at 8.) Defendants assert that Plaintiff cannot show that her alleged harassment was “unusually severe or pervasive for the setting.” (Dkt. No. 35 at 7) (emphasis in original).

In response, Plaintiff contends that “the evidence is clear that Plaintiff perceived the environment at [DJA] to be severely and pervasively abusive,” noting that Plaintiff testified to the same. (Dkt. No. 25-1 at 32, referencing Dkt. No. 25-2.) Plaintiff further contends

that “the evidence shows an ongoing course of relentless racial and sexual harassment” that undoubtedly satisfies the objective prong of the severe and pervasive standard. (*Id.*) Plaintiff also asserts that she has presented sufficient evidence to raise a genuine issue of material fact as to whether the harassment she experienced was sufficiently severe and pervasive, even when considering the unique setting of DJA. (Dkt. No. 30 at 18–19.)

Viewing the record as a whole and in the light most favorable to Plaintiff, the undersigned recommends that there is a genuine issue of material fact as to whether Plaintiff experienced severe and pervasive harassment while at DJA.⁵ The student discipline referrals submitted by Plaintiff indicate that she was frequently subjected to humiliating, degrading, and threatening student behavior. (*See generally* Dkt. Nos. 25-6; 27-2.) Deposition testimony throughout the record confirms the same. (Dkt. No. 25-2; Dkt. No. 25-3; Dkt. No. 25-4; Dkt. No. 25-5; Dkt. No. 27-4; Dkt. No. 27-5; Dkt. No. 27-6; Dkt. No. 27-7; Dkt. No. 27-8.) The record also indicates that, although certain DJA employees did not find the environment hostile, others did. (Dkt. No. 25-2; Dkt. No. 25-3; Dkt. No. 25-4; Dkt. No. 25-5; Dkt. No. 27-4; Dkt. No. 27-5; Dkt. No. 27-6; Dkt. No. 27-7; Dkt. No. 27-8.)

⁵ It appears undisputed that Plaintiff subjectively believes she experienced severe and pervasive harassment at DJA. (*See generally* Dkt. Nos. 25-1, 27-1, 30, 32, 35, 36.) As such, the undersigned has focused on whether Plaintiff can satisfy the objective component of this element of her hostile work environment claims.

The Court recognizes that it “must bear in mind that schools are unlike the adult workplace and that children may regularly interact in a manner that would be unacceptable among adults.” *Webster v. Chesterfield Cnty. Sch. Bd.*, 534 F. Supp. 3d 537, 548 (E.D. Va. April 20, 2021) (internal quotation marks and citation omitted), *aff’d*, 38 F.4th 404 (4th Cir. 2022). The Court also recognizes that, typically, “a teacher’s power and authority over students strips students’ harassing conduct of much of its threatening character.” *Deen v. Shenandoah Cnty. Pub. Sch.*, No. 5:16-cv-79, 2017 WL 2987205, at *4 (W.D. Va. July 12, 2017). However, “whether [] harassment was sufficiently severe or pervasive to create a hostile work environment is quintessentially a question of fact for the jury.” *See Conner v. Schrader-Bridgeport Int’l, Inc.*, 227 F.3d 179, 199–200 (4th Cir. 2000) (referencing *Smith v. First Union Nat. Bank*, 202 F.3d 234, 243 (4th Cir. 2000)). Based on the record currently before the Court, a reasonable person in Plaintiff’s position could find the work environment at DJA objectively hostile, even considering the unique setting and the relationship between Plaintiff and her students. As such, the record contains enough evidence to create an issue of fact on the third prong of Plaintiff’s hostile work environment claims.

3. Imputable to Defendants

Even so, Plaintiff’s claims fail because there is no basis on which the impute liability to Defendants. Under Title VII, there are several circumstances in which liability may be imputed to an employer. Relevant here, an employer may be held liable for harassment of an employee by a non-employee third party when “the employer knew or should have known of the

harassment and failed to take prompt remedial action reasonably calculated to end the harassment.” *Freeman v. Dal-Tile Corp.*, 750 F.3d 413, 416, 422-23 (4th Cir. 2014). This “negligence standard” applies to third-party harassment because an employer may not avoid Title VII liability for such harassment by “adopting a ‘see no evil, hear no evil’ strategy.” *Id.* (quoting *Ocheltree*, 335 F.3d at 334).

Defendants argue that Plaintiff fails to satisfy the fourth prong of her hostile work environment claims because the DJA students’ actions cannot be imputed to Defendants under the aforementioned standard. (Dkt. No. 27-1 at 16–18, 20.) Defendants explain that “Plaintiff has admitted that she never contacted CCSD’s Employee Relations department to complain about the alleged harassment, and never requested that she be moved to another school during the alleged harassment.” (*Id.* at 16.) Defendants further note that Plaintiff admitted to “only ma[king] complaints about the actions of the students through her disciplinary referrals,” and that Plaintiff only filed complaints with the South Carolina Human Affairs Commission after she left DJA. (*Id.* at 17; Dkt. No. 32 at 4.)

By contrast, Plaintiff claims that the content of her disciplinary referrals should have put Defendants on notice of Plaintiff’s alleged harassment. (Dkt. No. 25-1 at 12– 16.) Plaintiff also claims that Defendants were put on notice “of the abysmal conditions of DJA via reports from a well-respected Charleston teachers’ group,” the Charleston Teacher’s Alliance. (*Id.* at 16– 17.) Further, Plaintiff asserts that “Defendants were [] placed on notice of the completely unacceptable conditions at DJA through the damning annual

evaluations of DJA's Principal, Defendant Rodgers," in which Defendant Rodgers admitted that she did not "consistently enforce standards for appropriate student behavior." (*Id.* at 19–20.) Additionally, Plaintiff contends that the steps Defendants took in responding to her student discipline referrals were insufficient, claiming that a common response—in-school suspension—was "a meaningless and futile exercise that did nothing to actually deter or improve misbehavior." (*Id.* at 23.)

Upon careful review of the parties' arguments and the evidence in the record, the undersigned agrees with Defendants that liability cannot be imputed in this case. As the Fourth Circuit has explained: "[A]n employer *cannot* be expected to correct harassment unless the employee makes a concerted effort to inform the employer that a problem exists under its reasonable procedures . . . employee[s] [] bear[] significant responsibility in notifying the employer." *E.E.O.C. v. Xerxes Corp.*, 639 F.3d 658, 674 (4th Cir. 2011) (internal quotation marks and citations omitted) (emphasis in original).

Here, the record conclusively establishes that Plaintiff never filed a formal or informal harassment complaint and never told Defendant Rodgers (or any other administrator) that she felt her students were harassing her because of her sex and race. (Dkt. No. 27-4 at 17.) In an affidavit attached to her response in opposition to Defendants' summary judgment motion, Plaintiff claims, for the first time, that "[a]t least three times a week, I orally informed my assistant principal at DJA, Bernard Scott, that I was being sexually and racially harassed by students. I would repeatedly ask him to address the issues raised in my referrals and

what could be done to stop or reduce my abuse.” (Dkt. No. 30-1 at 7.) However, this affidavit is not supported by any other evidence in the record. In fact, this statement is contradicted by Plaintiff’s deposition testimony. (Dkt. No. 27-4 at 17.) When asked if she had ever filed a complaint with the District’s employee relations department about sexual or racial harassment, she said no. (*Id.*) She continued on to explain that she only “notified the assistant principal, principal, the district office . . . through [disciplinary] referrals. . . .” (*Id.*)⁶

Regardless, it is well-established within this circuit that a party may not file a “sham affidavit” in order to create an issue of fact where the party has been examined under oath during the discovery period, as is the case here. See *Barwick v. Celotex Corp.*, 736 F.2d 946, 960 (4th Cir. 1984) (holding the sham affidavit did not create a genuine dispute of material fact). What is more, “a party who has been examined at length on deposition [cannot] raise an issue of fact simply by submitting an affidavit contradicting [her] own prior testimony,” because to allow that “would greatly diminish the utility of summary judgment as a procedure for screening out sham issues of fact.” *Hannah v. United Parcel Serv., Inc.*, 72 F.4th 630, 638

⁶ Notably, Plaintiff’s statement that she told Assistant Principal Scott she was being harassed is not the only statement in the affidavit that is inconsistent with the record and Plaintiff’s deposition testimony—the affidavit also states that her students frequently called her a “cracker,” but the incident reports included in the record reflect that she reported only one incident where this occurred, and her deposition testimony indicates that she was called this only twice during her tenure at DJA. (Dkt. No. 27-2 at 77; Dkt. No. 27-4 at 18.)

(4th Cir.) (citing *Barwick*, 736 F.2d at 960) (quoting *Perma Rsch. & Dev. Co. v. Singer*, 410 F.2d 572, 578 (2d Cir. 1969)); *see also Stevenson v. City of Seat Pleasant*, 743 F.3d 411, 422 (4th Cir. 2014)). As such, the undersigned declines to recommend that Plaintiff's affidavit creates a genuine issue of fact as to whether she reported her alleged harassment.

Throughout the remainder of Plaintiff's briefings and testimony, Plaintiff primarily relies on her student discipline referrals to satisfy the notice requirement, claiming that a reasonable administrator would have known Plaintiff was offended by her students' conduct and felt that she was being sexually and racially harassed. (Dkt. Nos. 25-1, 30, 36.) The undersigned finds this argument unconvincing.

First, the work environment at DJA was not that of a typical workplace in which the comments and behaviors Plaintiff reported were uncommon; rather, DJA students treated all teachers and administrators at the school with a similar level of disrespect and hostility. (Dkt. No. 25-2; Dkt. No. 25-3; Dkt. No. 25-4; Dkt. No. 25-5; Dkt. No. 27-2; Dkt. No. 27-4; Dkt. No. 27-5; Dkt. No. 27-6; Dkt. No. 27-7; Dkt. No. 27-8.) Thus, an administrator reading Plaintiff's student discipline referrals would not necessarily assume that Plaintiff was complaining of sexual and racial harassment. Indeed, the record shows that some DJA employees took offense to the students' conduct, and others did not. (Dkt. No. 25-2; Dkt. No. 25-3; Dkt. No. 25-4; Dkt. No. 25-5; Dkt. No. 27-4; Dkt. No. 27-5; Dkt. No. 27-6; Dkt. No. 27-7; Dkt. No. 27-8.)

The Fourth Circuit has indicated that the Court must take into account the unique nature of a school like DJA when determining whether students' behavior

can be imputed to Defendants, given that schools like DJA must strike a precarious balance between maintaining a nonhostile work environment and ensuring that children have access to public education. *See Webster v. Chesterfield Cnty. Sch. Bd.*, 38 F.4th 404, 416 (4th Cir. 2022). In light of the circumstances present in this case, the undersigned finds that Plaintiff reporting specific instances of poor student behavior with the goal of obtaining discipline for the student cannot satisfy her burden to inform Defendants that she felt harassed in her workplace. *See Xerxes Corp.*, 639 F.3d at 674 (noting that employees bear significant responsibility in notifying employer of harassment).

Further, Plaintiff appears to conflate the disciplinary referral process and her responsibility to inform her employer that she felt she was being unfairly harassed and discriminated against. The evidence to which Plaintiff points in support of her contention that Defendants knew, or should have known, that Plaintiff felt harassed does not actually support this proposition. (Dkt. Nos. 25-6, 25-9, 25-10, 25-11.) Instead, this evidence shows that Defendants knew that students behaved poorly at DJA, and that school administrators had a difficult time handling the students' behavior. (Dkt. Nos. 25-6, 25-9, 25-10, 25-11.) Although Plaintiff coded a handful of her disciplinary referrals as "harassment" referrals, nowhere in those referrals did Plaintiff mention that she, herself, felt harassed. (*See generally* Dkt. Nos. 25-6, 27-2.) Indeed, each of the instances in which Plaintiff coded a referral as "harassment" involved conduct that would have reasonably been construed as harass-

ment of another student, as opposed to harassment of Plaintiff. (*See generally* Dkt. Nos. 25-6, 27-2.)⁷

Ultimately, Plaintiff has not provided any evidence from which the Court could infer a genuine issue of fact as to whether Defendants were put on notice that Plaintiff felt sexually and/or racially harassed by her students. The undersigned agrees with Plaintiff's contention that "the law does not require any special form of reporting or language; rather, it only requires that the Defendants be given notice and the ability to rectify harassment." (Dkt. No. 30 at 23.) However, in this instance, Plaintiff did not give Defendants notice that she felt she was being harassed. As explained, Plaintiff notified Defendants only that her students were unruly and disrespectful. (Dkt. No. 27-2.)

The undersigned reiterates that Plaintiff never filed a report through the District's specific reporting process, never informed her supervisor that she felt she was being harassed, and never requested a transfer to another school or otherwise indicated that she was incapable of performing her duties because she felt harassed in her work environment. (Dkt. No.

⁷ Plaintiff seems to claim that she would have coded her referrals differently, but that Assistant Principal Bernard Scott told her to "to quit writing intimidation referrals of level three; to use profanity referrals of level one instead," in an effort to lessen the consequences for the students being disciplined. (Dkt. No. 25-2 at 6-7, 10-11.) However, Plaintiff also testified that Scott told her to code her referrals as profanity referrals to make them "clearer" and "more specific," and indicated that she could still "explain the other things that happened." (*Id.* at 6, 11.) Regardless, Scott's instruction on coding student discipline referrals has no bearing on Plaintiff's failure to report that she felt harassed; Plaintiff could have included that information anywhere in her referrals, not just in their codes.

27-4 at 20.) Instead, she left school one day and did not return, only then informing Defendants that she felt she was being harassed and was so emotionally disturbed that she could no longer teach. (Dkt. No. 25-2 at 2; Dkt. No. 25-12; Dkt. No. 25-13; Dkt. No. 25-14; Dkt. No. 27-4 at 7.) This record does not demonstrate that Plaintiff took steps to inform Defendants of the harassment she experienced. Defendants therefore did not have an opportunity to address or correct Plaintiff's alleged harassment. As the Supreme Court has noted, "[i]f Title VII's prohibitions against [] harassment are to be effective, employees must report improper behavior to company officials." *See Faragher*, 524 U.S. at 806. Plaintiff did not do so here. Plaintiff's hostile work environment claims therefore fail as a matter of law, and the undersigned RECOMMENDS that Defendants are entitled to summary judgment on such claims. *See Boyer-Liberto*, 786 F.3d at 278 (noting that "a plaintiff seeking to impute liability to her employer for harassment [] may not be able to establish the employer's negligence if she did not report the harassment").⁸

⁸ Even if Plaintiff put Defendants on notice that she felt she was being harassed, her hostile work environment claims would still fail because the record indicates that Defendants took action that was reasonably calculated to end the harassment. *See Freeman*, 750 F.3d at 423. Though Plaintiff claims that many student discipline referrals were not adequately addressed by the administration, she ignores the fact that the referrals *were* addressed, just not to her liking. (*See* Dkt. Nos. 25-6; 27-2.) Regardless, the record does not reflect a situation in which the District and its employees adopted a "see no evil, hear no evil" strategy to avoid liability. *See Ocheltree*, 335 F.3d at 334 ("[A]n employer cannot avoid Title VII liability for [third-party] harassment by adopting a 'see no evil, hear no evil' strategy."). Instead, the record shows that the District's administrators attempted

III. Section 1983 Claims

Section 1983 provides a remedy against any person who, under color of state law, deprives another of rights protected by the United States Constitution. *See City of Monterey v. del Monte Dunes*, 526 U.S. 687, 707 (1999). Section 1983 is the procedural mechanism through which Congress provided a private civil cause of action based on allegations of federal constitutional violations by persons acting under color of state law. *Jennings v. Davis*, 476 F.2d 1271 (8th Cir. 1973). The purpose of Section 1983 is to deter state actors from using the badge of their authority to deprive individuals of their federally guaranteed rights and to provide relief to victims if such deterrence fails. *McKnight v. Rees*, 88 F.3d 417 (6th Cir. 1996). To establish individual liability under Section 1983, a plaintiff must demonstrate that the individual defendant, acting under color of state law, deprived her of a right secured by the Constitution or the laws of the United States. *Wilcox v. Brown*, 877 F.3d 161, 170 (4th Cir. 2017) (noting liability will lie in Section 1983 actions only where it is “affirmatively shown that the official charged acted personally in the deprivation of the plaintiffs’ rights” (citation omitted)); *Mentavlos v. Anderson*, 249 F.3d 301, 310 (4th Cir. 2001). In the employment context, public employees may bring a Section 1983 action asserting Equal Protection claims. *Campbell v. Galloway*, 483 F.3d 258, 272 n.5 (4th Cir. 2007).

to manage unruly students, even though this was often a futile effort.

Here, Plaintiff's Section 1983 Equal Protection claims largely mirror her Title VII claims. More specifically, Plaintiff alleges that Defendants:

While acting under the color of state law . . . discriminated against the Plaintiff o[n] the basis of her race and gender, in violation of her right to equal protection of rights provided for in the 14th Amendment to the Constitution of the United States of America, and federal statutes . . . by subjecting the Plaintiff to a racially hostile work environment . . . [and] in violation of her right to work in an environment free of sexual harassment and free of a sexually hostile work environment.

(Dkt. No. 1.) In her briefings, Plaintiff relies on the arguments and evidence set forth in support of her Title VII claims to establish the merits of her Section 1983 claims. (Dkt. Nos. 25-1, 30.)

The Fourth Circuit has held that a claim brought pursuant to Section 1983 should be analyzed consistent with those principles that govern consideration of Title VII claims. *See Love-Lane v. Martin*, 355 F.3d 766, 786 (4th Cir. 2004); *Gairola v. Va. Dep't of Gen. Servs.*, 753 F.2d 1281 (4th Cir. 1985) ("Under Title VII and either § 1981 or § 1983, the elements of the required *prima facie* case [for employment discrimination] are the same."). Accordingly, Plaintiff's Section 1983 claims fail for the same reasons as her Title VII claims. The undersigned therefore RECOMMENDS that Defendants' summary judgment motion be GRANTED as to Plaintiff's Section 1983 claims, as well. *See Nelson v. Beaufort Cnty. Sheriff's Off.*, No. 9:18-cv-2962-DCN-MHC, 2021 WL 6880646, at *16

(D.S.C. Nov. 23, 2021) (recommending dismissal of Section 1983 claim because claim failed for same reason as Title VII claims), *adopted*, 2022 WL 407408 (D.S.C. Feb. 10, 2022).⁹

CONCLUSION

Based on the foregoing, the undersigned RECOMMENDS that the Court DENY Plaintiff's Motion for Partial Summary Judgment (Dkt. No. 25), GRANT Defendants' Motion for Summary Judgment (Dkt. No. 27), and dismiss Plaintiff's case in full.

IT IS SO RECOMMENDED.

/s/ Mary Gordon Baker

United States Magistrate Judge

July 22, 2024 Charleston,
South Carolina

⁹ Because the undersigned recommends that Defendants are entitled to summary judgment on Plaintiff's Section 1983 claims on this basis, the undersigned need not address Defendants arguments regarding qualified immunity.

**Notice of Right to File Objections to
Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
Post Office Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

**ORDER DENYING PETITION FOR
REHEARING EN BANC, U.S. COURT OF
APPEALS FOR THE FOURTH CIRCUIT
(JULY 8, 2026)**

FILED: July 8, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

SHELLY G. HUDSON,

Plaintiff–Appellant,

v.

CHARLESTON COUNTY SCHOOL DISTRICT;
DANA RODGERS, in her individual capacity;
JENNIFER COKER, in her individual capacity,

Defendants–Appellees.

No. 25-2088
(2:22-cv-03423-DCN)

Before: DIAZ, Chief Judge,
HARRIS and BENJAMIN, Circuit Judges.

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en banc.

App.56a

Entered at the direction of the panel: Chief
Judge Diaz, Judge Harris, and Judge Benjamin.

For the Court

/s/ Nwamaka Anowi

Clerk

**ORDER DENYING MOTION TO AMEND
JUDGMENT, U.S. DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
(AUGUST 14, 2025)**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

SHELLY G. HUDSON,

Plaintiff,

v.

CHARLESTON COUNTY SCHOOL DISTRICT;
DANA RODGERS, in Her Individual Capacity; AND
JENNIFER COKER, in Her Individual Capacity,

Defendants.

C/A No.: 2:22-cv-3423 DCN

Before: David C. NORTON,
United States District Judge.

ORDER

This matter is before the court pursuant to plaintiff's motion to alter or amend judgment granting defendants' motion for summary judgment and denying plaintiff's motion for partial summary judgment. This motion was filed on August 6, 2025. On August 7, 2025, defendants filed their response in opposition.

After careful review of the record, the instant motion and response, it is therefore

ORDERED that plaintiff's motion is DENIED.

AND IT IS SO ORDERED.

/s/ David C. Norton
United States District Judge

August 14, 2025
Charleston, South Carolina

**COMPLAINT
(OCTOBER 4, 2022)**

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

SHELLY G. HUDSON,

Plaintiff,

v.

CHARLESTON COUNTY SCHOOL DISTRICT;
DANA RODGERS, in Her Individual Capacity; AND
JENNIFER COKER, in Her Individual Capacity,

Defendants.

C.A. No.: 2:22-cv-3423-DCN-MGB

COMPLAINT
(Jury Trial Requested)

The Plaintiff, Shelly G. Hudson, complaining of the above named Defendants, would respectfully show unto this Honorable Court, the following:

I. PARTIES, JURISDICTION, AND VENUE

1. The Plaintiff, Shelly G. Hudson, is a resident and a citizen of the City of North Charleston, Charleston County, and State of South Carolina.

2. The Defendant, Charleston County School District (hereinafter referred to as “District”) is a subdivision of the State of South Carolina, located in Charleston County, State of South Carolina.

3. Upon information and belief, Defendant Dana Rodgers (hereinafter referred to as “Rodgers”) is a citizen and resident of Charleston County, South Carolina.

4. Upon information and belief, the Defendant Jennifer Coker (hereinafter referred to as “Coker”) is a citizen and resident of Berkeley County, South Carolina.

5. That this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 1343 because this action is based on 42 U.S.C. § 1981 and 200e2 *et. seq.* and Title VII of the Civil Rights Act of 1964, as amended and the 14th Amendment to the Constitution of the United States of America.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the Defendants are situated in, or reside in, the Charleston Judicial Division of the United States District Court for the District of South Carolina, and the alleged unlawful and/or wrongful acts giving rise to the Plaintiff’s claims were committed within the geographic boundaries of the Charleston Judicial Division.

FACTS

7. The Plaintiff who is a white female entered into a Contract of Employment on July 2, 2018, for the position “Position-Title: Classroom Teacher” in Math at the Daniel Jenkins Academy, a public school for high school age students, operated by the “District” and physically located in the City of North Charleston, Charleston County, State of South Carolina, for the public school year 2018-2019, beginning in August of 2018, and ending in May of 2019.

8. That the Contract of Employment between the Plaintiff and the “District” carried with it a District “Position Description” which stated as the “Purpose or Reason for the Position: To help students learn subject matter and/or skills that will contribute to their development as mature, able and responsible men and women” in the subject of Math and that the Plaintiff was to “Reports to: Principal.”

9. That the “Principal” to which the Plaintiff reported to the entire time the Plaintiff was employed by the District and taught Math as a classroom teacher during the time period August of 2018 through May, 2019 was the Defendant “Rodgers.”

10. That at all times relevant hereto and during the entire time period from August of 2018 through May of 2019, the Defendant Rodgers was the Principal of the Daniel Jenkins Academy and was the supervisor of the Plaintiff.

11. That during the entire time period from August of 2018 through May of 2019 that the Plaintiff taught Math as a classroom teacher at the Daniel Jenkins Academy the Defendant “Rodgers” was the

top supervisor and decision maker with regards to discipline on site at the Daniel Jenkins Academy.

12. That the entire time period from August of 2018 through the month of May of 2019 during which time the Plaintiff was employed by the “District” and working at the Daniel Jenkins Academy and the Defendant “Rodgers” was the Principal of the Daniel Jenkins Academy, the Supervisor of the Plaintiff, and the top Administrator on site in charge of student discipline, the same “District” Rules governing student discipline and what constitutes sexual and racial harassment of employees applied at the Daniel Jenkins Academy as at Wando High School, the Academic Magnet High School, the Charleston County School of the Arts, West Ashley High School, and also other “District” High Schools, a fact which the Defendant Rodgers personally knew and had knowledge of.

13. That the Defendant Jennifer Coker (herein-after referred to as “Coker”), was at all times relevant hereto, the “District” supervisor of the Defendant “Rodgers”, and from August of 2018 through May of 2019, during which time the Plaintiff was employed by the “District” and working at the Daniel Jenkins Academy, and during the entire time of which the Defendant Rodgers was the Principal of the Daniel Jenkins Academy, the Defendant “Coker” was assigned by the Defendant “District” to be responsible for overseeing the Defendant “District’s” program at Daniel Jenkins Academy, including discipline of students at the Daniel Jenkins Academy.

14. That the Defendant “Coker” as the “Executive Director of Alternative Programs” with the “District” was instrumental in developing a new “District” wide Progressive Discipline Plan in February of 2017 for

students in the “District” including students attending the Daniel Jenkins Academy from August 2018 through May of 2019, and the Defendant “Coker” was instrumental in overseeing and ensuring that the new Progressive Discipline Plan was implemented and carried out at the Daniel Jenkins Academy during that entire time period.

15. That the Defendant “Coker” was the “Director” of the Defendant “Rodgers” at all times relevant hereto.

16. That in August of 2016 the Defendant “District” combined Liberty Hill Academy and the Daniel Jenkins Academy, combining the special education program only at Liberty Hill Academy with Daniel Jenkins Academy and flipped the Daniel Jenkins Academy from serving middle school students to high school students, including overage 8th graders through 12th graders.

17. That the transformation of Daniel Jenkins Academy in August of 2016 from a middle to high school, combining special education students at the same facility with general education students with discipline issues was done in a rushed manner in a matter of “Two to Three Months” according to the Defendant “Rodgers” and was done by the Defendant “Rodgers” director, the Defendant “Coker” and was overseen and directed by the Defendant “Coker” in her capacity as a top and final decision making in the Defendant “Coker”s capacity as the “District”s Executive Director of Alternative Programs, without adequate planning or resources allocated to ensure the safety of employees at the Daniel Jenkins Academy or adequate planning or resources to adequately protect employees at the Daniel Jenkins Academy from

being exposed to a racially and sexually hostile work environment.

18. That the rushed, ill planned, inadequately resourced combination of Liberty Hill Academy and Daniel Jenkins Academy as implemented at the Daniel Jenkins Academy from August 2018 through May of 2019 by the Defendant “Coker” in her capacity as “Executive Director of Alternative Programs” for the “District” combined with the “Progressive Discipline Plan” implemented by the Defendant “District”, acting by and through the Defendant “Coker” who the Defendant “District” put in a position to oversee and direct the new combined Program at the Daniel Jenkins Academy, created a working environment for employees at the Daniel Jenkins Academy to be exposed to abusive and hostile behavior based on sex and race on a frequent, severe and degrading basis.

19. That the combined rushed, ill planned and inadequately planned combination of programs at the Daniel Jenkins Academy as implemented and directed by the Defendant “Coker” as above stated created a hostile working environment for female teachers who lacked safety and support from the Defendant “District”, from the Defendant “Coker” and from the Defendant “Rodgers” who was the final decision maker on site at the Daniel Jenkins Academy facility from August of 2018 through May of 2019 by knowingly and willfully allowing unresolved discipline issues to fester, including no consistent consequences for misbehavior, including the use of racial and sexual slurs by students against female employees, by consciously and knowingly misusing ISS, sending students to ISS for such a short period of time for racially and sexually harassing female teachers and

employees, thereby creating a grim working environment where employees suffered from physical and psychological trauma and injuries.

20. That from August 2018 through May of 2019, the Defendant “District” knowingly and with such recklessness as to amount to deliberate indifference, through the actions and inactions of the Defendant “Coker” as the delegated top Administrative official of the Defendant “District” to oversee the Program at the Daniel Jenkins Academy, and by and through the actions and inactions of “Rodgers” who was the final Administrator onsite at the facility and physical premises of Daniel Jenkins Academy as to student discipline, allowed the creation of a hostile working environment for employees to be sexually and racially harassed by students on a frequent and severe basis that substantially altered the working conditions of employees as the result of unresolved discipline and inconsistent responses by the Defendant “Coker” and the Defendant “Rodgers” to sexually and racially hostile behavior by students towards employees at the Daniel Jenkins Academy from August of 2018 through May of 2019.

21. That during the time that the Plaintiff was employed at the Daniel Jenkins Academy as a classroom Math teacher, while the Defendant “Rodgers” was the Principal and the Defendant “Coker” was the overseer of the Program at the Daniel Jenkins Academy as above stated, the Plaintiff was sexually harassed, and intimidated from on or about August 2018 through May 16, 2019, on an even more frequent and severe basis from March of 2019 through May of 2019.

22. That during the time period the Plaintiff was employed by the “District” as a Math teacher from

August of 2018 through May of 2019, the Defendant “Rodgers” was not consistently in attendance on the premises of the Daniel Jenkins Academy.

23. That the “Principal’s Summertime Evaluation Form” done by the Defendant “District” on the Defendant “Rodgers” for the 2018-2019 school year found that “the Principal is not consistently in attendance.”

24. That the “Principal not consistently in attendance” referred to in Paragraph 23 above is the Defendant “Rodgers.”

25. That during the time period that the Plaintiff was employed by the Defendant “District” and taught as a Math teacher at the Daniel Jenkins Academy from August of 2018 through May of 2019, the Defendant “Rodgers” was not effective at managing people or conflict.

26. That during the time period that the Plaintiff was employed by the Defendant “District” and taught as a classroom Math teacher at the Daniel Jenkins Academy from August of 2018 through May of 2019 only 40.79% of the staff at the Daniel Jenkins Academy agreed that students were held accountable for their behavior and only 53.6% of the staff saw the Defendant “Rodgers” as presenting herself as “in charge of the school.”

27. That during the time period from August of 2018 through May of 2019 the Defendant “Rodgers” did not work to train her Assistant Principals at the Daniel Jenkins Academy to a level where they could manage the building in her (the Defendant “Rodgers”) absence nor did the Defendant “Rodgers” establish expectations for her Assistant Principals to follow when a crisis occurred in her absence.

28. That during the Spring Semester of the School Year 2019, and during the time period that the Plaintiff was most sexually and racially harassed by students at the Daniel Jenkins Academy while she was employed as a classroom Math teacher on the premises of the Daniel Jenkins Academy the Defendant “Rodgers” was such an ineffective manager of the Daniel Jenkins Academy that the Defendant “Coker” had to twice issue Letters of Reprimand to the Defendant “Rodgers” for her ineffective management of the school.

29. That by allowing the Defendant “Rodgers” to continue being the Principal of the Daniel Jenkins Academy when she knew that the Defendant “Rodgers” was ineffective in managing the school, and was not consistently present on the premises, the Defendant “Coker” exhibited conscious indifference to the safety and health of the employees at Daniel Jenkins Academy, and exposed those employees to frequent racial and sexual harassment by the students which went ineffectively addressed.

30. That during the time period August of 2018 through May of 2019 during which the Plaintiff was a classroom Math teacher at the Daniel Jenkins Academy only 50% of the staff at the Daniel Jenkins Academy felt that the Administration of the Daniel Jenkins Academy ensured their safety in the building.

31. That during the time period that the Plaintiff was employed as a classroom Math teacher at the Daniel Jenkins Academy from August of 2018 through May of 2019 the Administration of the Daniel Jenkins Academy did not process some major referrals appropriately, a reality that exposed the staff, including the Principal to frequent and degrading sexual harass-

ment by students that was not adequately responded to by the Administration of the Daniel Jenkins Academy.

32. That during the time period that the Plaintiff was employed as a classroom Math teacher at the Daniel Jenkins Academy from August of 2018 through May of 2019, the Administration did not process major referrals of student misconduct in a timely manner, a reality that caused staff there, including the Principal, to be exposed to frequent and degrading racial and sexual harassment by students, who felt emboldened and empowered by that lack of timely and appropriate consequences for racial and sexual harassment of staff, including that of the Plaintiff.

33. That during the time that the Plaintiff was employed at the Daniel Jenkins Academy from August of 2018 through May of 2019, over 75% of the staff surveyed by the Defendant "District" felt that the Administration of the Daniel Jenkins Academy did not apply appropriate consequences for student misconduct.

34. That the "Principal's Summative Evaluation Form" done by the "District" on the Defendant "Rodgers" performance and effectiveness as Principal of the Daniel Jenkins Academy for the time period from August of 2018 through May of 2019 (the 2018-2019 school year) made the observation in writing as part of that Evaluation that the "Overall Climate in the Building is a direct reflection of the leader in the building and that the climate is not positive and productive," and that the leader being referred to was the Defendant "Rodgers" and the building being referred to was the Daniel Jenkins Academy during

the time that the Plaintiff was a classroom Math teacher at the Daniel Jenkins Academy.

35. That the Defendant “District” was aware that the staff at the Daniel Jenkins Academy during the school year 2018-2019, had multiple concerns about the management of student behavior at the Daniel Jenkins Academy by the Administration of the school, including by the Defendant “Rodgers.”

36. That the “Principal’s Summative Evaluation Form” done by the Defendant “District” on the Defendant “Rodgers” for the school year 2018-2019 included a written observation that there was “Evidence that the Assistant Principals have not processed some major referrals appropriately nor have they processed in a timely manner, a reality that contributed to staff at the Daniel Jenkins Academy being subject to increased frequent and degrading racial and sexually hostile behavior by students that was not appropriate or timely addressed which caused it to continue and increase in violence and frequency.

37. That prior to the start of the 2018-2019 school year, on or about July of 2018, the Defendant “Rodgers” wrote to the Defendant “Coker” and specifically admitted that “I neglected to establish or consistently enforced standards for appropriate student behavior according to local, state and federal requirements.”

38. That period to the start of the 2018-2019 school year, on or about July of 2018, the Defendant “Rodgers” wrote to her Supervisor, the Defendant “Coker” and specifically used the words that, “I rarely manage conflict and crisis situations in an effective and timely manner.”

39. That prior to the start of the 2018-2019 school year, on or about July of 2018, the Defendant “Rodgers” wrote to the Defendant “Coker” specifically admitting and stating that “I infrequently deal with student misconduct in a prompt and effective manner.”

40. That the Defendant “Coker” allowed the Defendant “Rodgers” to continue being the Principal of the Daniel Jenkins Academy for the school year of August 2018 through May of 2019 despite receiving the written admission from the Defendant “Rodgers” in July of 2018 that the Defendant “Rodgers”, “neglected to establish or consistently enforce standards for appropriate student behavior according to local, state and federal requirements, rarely managed conflict and crisis situations in an effective and timely manner and infrequently dealt with student misconduct in a prompt and effective manner,” as set forth in Paragraphs 37, 38 and 39 above, a reality that exposed the staff employed at the Daniel Jenkins Academy for the time period August of 2018 through May of 2019 to be knowingly and recklessly exposed to student misconduct in a manner that amounted to conscious indifference to the safety and welfare of the staff, including the Plaintiff.

41. That the Defendant “Rodgers” knew that the students at Daniel Jenkins Academy called the white female employees at the Daniel Jenkins Academy “fucking white bitch” while those employees were employed at the Daniel Jenkins Academy during the 2018-2019 school year, because the Defendant “Rodgers” was herself called a “fucking white bitch” many times by students at the Daniel Jenkins Academy during the same time period that the Plaintiff was

called “a fucking white bitch” by students at the Daniel Jenkins Academy.

42. That the Defendant “Rodgers” did not effectively or timely discipline or address students calling white female employees at the Daniel Jenkins Academy during the time period August of 2018 through May of 2019, a reality that increased the frequency of such racial and sexual slurs because there was no timely or effective discipline of such behavior.

43. That the Defendant “Rodgers” was of the belief at all times relevant hereto that it was a frequent occurrence at every Charleston County School in the defendant “District” for female employees to be called a Bitch by students and that was simply a fact of life if you worked as a female employee in a public school in the “District” and was not something she needed to effectively or timely discipline students for to the point of stopping students calling female employees at the Daniel Jenkins Academy “bitches.”

44. That as a direct result of the Defendant “Rodgers” not effectively or timely addressing student misconduct towards teachers at the Daniel Jenkins Academy the Plaintiff was frequently called racial and sexual slurs on a regular basis throughout the 2018-2019 school year to the point that substantially disrupted the Plaintiff’s capacity to do her job as she was frequently being subjected to racial and sexual slurs based on her gender (female) and race (white) that were humiliating, degrading and frequent.

45. That the Plaintiff was frequently called a “fucking bitch” by students at the Daniel Jenkins Academy throughout the 2018-2019 school year while the Plaintiff was required by law to be present on the

premises of the Daniel Jenkins Academy during the school day, and the defendant “Rodgers” knew that students called female employees “fucking bitch” frequently because she (the Defendant “Rodgers”) was many times called a “fucking bitch” during the same period.

46. That the students’ misconduct towards female employees worsened during the 2018-2019 school year as the racial and sexual slurs aggressively hurled by students towards the Plaintiff and other female employees were not timely or effectively addressed.

47. That on February 6, 2019, a student said, “Fuck you bitch” several times to the Plaintiff while the Plaintiff was teaching at the Daniel Jenkins Academy and the next day on February 7, 2019 a student said, “Fuck you bitch” to the Plaintiff while the Plaintiff was teaching after the same student told the teaching assistant in the same classroom, “I wouldn’t fuck your fat ass bitch.”

48. On March 5, 2019, while the Plaintiff was teaching at the Daniel Jenkins Academy a student called the Plaintiff a bitch several times; on March 8, 2019, while the Plaintiff was teaching at the Daniel Jenkins Academy, a student yelled at the Plaintiff, “You’re a lying mother fucker” in an aggressive manner; and on March 11, 2019, while the Plaintiff was teaching at the Daniel Jenkins Academy, a student called the Plaintiff a “cracker” and told the Plaintiff to “shut the fuck up” and “fuck you bitch.”

49. That when the student called the Plaintiff a “cracker” on March 11, 2019, in the Plaintiff’s classroom, in front of all the other students, and also told the Plaintiff to “shut the fuck up” and “fuck you bitch”,

the student was sent to ISS and was then returned back to the Plaintiff's classroom ten minutes later by the Administration of the Daniel Jenkins Academy, something seen and witnessed by all the other students, which served to escalate the sexual and racial harassment of the Plaintiff by the students who witnessed the Plaintiff being called racial and sexual slurs and the student who called the Plaintiff that returned to the classroom within 10 minutes.

50. On March 12, 2019, the very next day after the Plaintiff was called a "cracker" and a "fucking bitch" and the student who used racial and sexual slurs returned to the classroom within minutes, another student told the Plaintiff to "shut the fuck up bitch" while the Plaintiff was teaching.

51. Two days later on March 14, 2019, a student in the Plaintiff's class began yelling, "Fuck all of you" disrupting the Plaintiff's ability to teach as the students saw there were no real consequences for their behavior.

52. On April 15, 2019, while teaching at the Daniel Jenkins Academy, a student in her classroom called the Plaintiff a "bitch" and told her to "shut the fuck up."

53. On April 18, 2019, while teaching at the Daniel Jenkins Academy, a student in the Plaintiff's classroom yelled at the Plaintiff, "Fuck you bitch" and acted like she was going to physically hurt the Plaintiff.

53. On April 24, 2019, while the Plaintiff was teaching at the Daniel Jenkins Academy, a student in the Plaintiff's classroom told the Plaintiff to "Scratch your ass and get glad, don't get mad cause your

boobies sag, Goldilocks with your long hair,” directly referring to the Plaintiff’s long blonde hair and personal anatomy.

54. On April 30, 2019, while the Plaintiff was teaching at the Daniel Jenkins Academy, a student threatened in a loud voice, “to shut the fuck up with your ugly ass knees” directly referring to the Plaintiff’s appearance and body.

55. That on May 2, 2019, while the Plaintiff was teaching at the Daniel Jenkins Academy, a student got right up to the body of the Plaintiff and told her “Fuck you bitch,” making her feel humiliated, threatened and degraded.

56. On May 8, 2019, while the Plaintiff was teaching at the Daniel Jenkins Academy, a student began cussing at the Plaintiff and began pushing and shoving the Plaintiff, intimidating the Plaintiff.

57. As a result of the assault on her on May 8, 2019 the Plaintiff missed school until May 14, 2019.

58. On May 14, 2019, when the Plaintiff returned to teaching at the Daniel Jenkins Academy, a student in the Plaintiff’s classroom yelled out at the Plaintiff and told her, “Fuck you, you fucking bitch,” in front of the Administration of the Daniel Jenkins Academy and told the Plaintiff that she was going to “Fucking steal you off.”

59. On May 16, 2019, while teaching at the Daniel Jenkins Academy, a student in the Plaintiff’s classroom started yelling at the Plaintiff, “Girl, you wear the same dress every fucking day. You fucking nasty. Go back to your ugly ass chair. Bye fucking ugly ass grandma knees.”

60. On May 16, 2019, while still teaching at the Daniel Jenkins Academy, and only a few minutes after the events described in the preceding paragraph, a student told the Plaintiff to “Fuck up bitch, you and your ugly ass dresses, you don’t fucking tell me what to do, fucking bitch.”

61. That it became increasingly hostile on the basis of race and sex to work at the Daniel Jenkins Academy after the events of March 8, 2019. On March 8, 2019, while the Plaintiff was teaching at the Daniel Jenkins Academy a male student was talking out loud about a train running on a female student in Plaintiff’s classroom, which everyone understood as several men having sex with the female student at the same time and the female student got upset and told the male student to stop, but the male student continued to harass the student. The Plaintiff called the Administration at the school to remove the male student. The male student was removed from the class, but before the same class period was over and in the presence of all the students in the classroom, the Defendant “Rodgers” in her capacity as the Principal and final decision maker to student discipline at the Daniel Jenkins Academy, personally brought the male student back into the same classroom.

62. That after all the students personally witnessed the Principal of the school bring back the male student after the male student was sexually harassing a female student about several men having sex with her at the same time, the sexual harassment of the Plaintiff got worse for the rest of the year as shown in all of the above paragraphs for the rest of April and May of 2019 until the Plaintiff could no

longer take it and has been unable to return to teaching since May 16, 2019.

63. That at all times relevant hereto, the Defendant “Rodgers” and the Defendant “Coker” were acting under color of State law, and the “District” by and through the “District’s” Policies, Customs, and Protocols, and each of them, subjected the Plaintiff to discrimination and harassment on the basis of gender (sex) and race, in violation of her right to equal protection as provided for in the Fourteenth Amendment to the Constitution of the United States of America.

64. That at the conclusion of the 2019 school year the Defendant “Rodgers” was removed by the “District” as Principal of the Daniel Jenkins Academy for, among other things, failing to adequately and promptly address student misconduct, creating an unsafe environment to work in, and failing to adequately and properly follow state and federal regulations.

65. That the very things that the Defendant “District” removed the Defendant “Rodgers” for from being Principal of the Daniel Jenkins Academy at the conclusion of the 2019 school year, were things that the defendant “Rodgers” admitted in writing to the Defendant “Coker” prior to the beginning of the 2018-2019 school year.

66. By allowing the Defendant “Rodgers” to continue being the Principal of the Daniel Jenkins Academy after the Defendant “Rodgers” admitted in writing to the Defendant “Coker” that she (the Defendant “Rodgers”) neglected to establish or consistently enforce standards for appropriate student

behavior according to local, state and federal requirements and that she (the Defendant “Rodgers”) “Infrequently dealt with student misconduct in a prompt and efficient manner” subjected the Plaintiff to inadequately and not promptly addressing student misconduct, including sexual and racial harassment, in a way that was consciously, knowingly, and recklessly indifferent to the consequences of allowing the Defendant “Rodgers” to continue to be Principal of the Daniel Jenkins Academy for the 2018-2019 school year.

67. That as a direct result of the racial and sexual harassment the Plaintiff suffered while employed at the Daniel Jenkins Academy during the time period August of 2018 through May 16, 2019, as above stated, the Plaintiff suffered stress, anxiety, fear for her safety, post traumatic stress, depression, a change in her personality, sleep, and deterioration in her body, health to the point where the Plaintiff has had to seek medical care and has been unable to return to any kind of gainful employment since May 16, 2019, thereby also incurring severe income loss.

**FOR A FIRST CAUSE OF ACTION
(Violation of Civil Rights 42 U.S.C. § 1981)**

68. Plaintiff repeats and realleges all of the preceding paragraphs as if restated verbatim herein.

69. That while acting under color of state law as agents of the Defendant “District” Defendant “Rodgers” and Defendant “Coker” have discriminated against the Plaintiff by being consciously indifferent to and tolerating a racially hostile environment for the Plaintiff while the Plaintiff was employed at the

Daniel Jenkins Academy during school hours and on school grounds.

70. That the acts and omissions of the Defendants, and each of them, were grossly negligent and reckless with regard to Plaintiff's constitutional and statutory rights to work in an environment not subject to racial harassment during the time period from March 2018 to March 2019.

71. That the Plaintiff is entitled to actual, consequential, compensatory damages against the Defendants, and each of them, as well as reasonable attorney fees and costs in having to bring this action, and punitive damages against the Defendants "Rodgers" and "Coker".

72. That as a direct result of the actions and inactions of the Defendants, and each of them, as stated above, and the grossly negligent and reckless disregard by the Defendants, and each of them, to the Plaintiff's constitutional and statutory right to work in an environment not subject to racial harassment, the Plaintiff suffered actual and consequential damages, including adverse physical symptoms, psychological disturbances, symptoms of depression, anxiety, high blood pressure, nausea, stress and anxiety.

73. That the actions and omissions of the Defendants "Rodgers" and "Coker" and each of them, as set forth above, were the actions of Final Decision Makers and were the actions and omissions of high ranking Administrators of the Defendant "District" regarding the conditions of employment of the Plaintiff at the Daniel Jenkins Academy to the degree that their actions and omissions are those of the Defendant "Dis-

trict” for purposes of the Defendant “District”s liability under 42 U.S.C. 1981 for interfering with the Plaintiff’s right to employment without being subject to racial harassment.

**FOR A SECOND CAUSE OF ACTION
(Violation of Civil Rights 42 U.S.C. 1983)**

74. The Plaintiff repeats and realleges the preceding paragraphs as if restated verbatim herein.

75. While acting under color of state law, the Defendants, and each of them, discriminated against the Plaintiff on the basis of her race and gender, in violation of her right to equal protection of rights provided for in the 14th Amendment to the Constitution of the United States of America, and federal statutes, including Title VII of the Civil Rights Act of 1964, as amended.

76. While acting under color of state law, the Defendants, and each of them, have discriminated against the Plaintiff on the basis of her race in violation of her right to equal protection under the 14th Amendment to the Constitution of the United States of America, by subjecting the Plaintiff to a racially hostile work environment.

77. That while acting under color of state law, the Defendants, and each of them, have discriminated against the Plaintiff on the basis of her gender (sex) in violation of her right to work in an environment free of sexual harassment and free of a sexually hostile work environment.

78. The Defendants’ actions, and each of them, as above stated, were intentional, wilful, malicious and in reckless disregard of Plaintiff’s federally pro-

tected rights, and Plaintiff is entitled to actual, consequential and compensatory damages as well as reasonable attorney fees and costs, under Section 42 U.S.C. 1988 against all Defendants, and punitive damages against the Defendants “Rodgers” and “Coker”.

79. That the actions and omissions of the Defendant “Rodgers” and Defendant “Coker”, and each of them as set forth above, were the actions of final decision makers and were the actions and omissions of high ranking Administrators of the Defendant “District” regarding the condition of the Plaintiff’s employment with the “District” so that the actions and omissions of the Defendants “Rodgers” and “Coker” are those of the “District” for purposes of liability under 42 U.S.C. 1988.

**FOR A THIRD CAUSE OF ACTION
(Violation of Title VII of the Civil Rights
Act of 1964, as amended) Section 2000(e)**

80. Plaintiff repeats and realleges all of the preceding paragraphs as though restated verbatim herein.

81. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination based on race, color, religion, sex and national origin, and under Title VII, an employer may not discriminate against an employee with regard to any term, condition or privilege of employment.

82. The Defendant “District” and the Defendants “Rodgers” and “Coker”, as agents and high ranking Administrators with final decision making authority over the Plaintiff, are employers covered by the

provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000(e) *et. seq.*

83. On or about September 3, 2020, Plaintiff was sent a “Notice of Suit Rights” from the United States Equal Employment Opportunity Commission dated September 3, 2020, regarding the Plaintiff’s charge of racial and sexual discrimination against the Defendant “District” for subjecting the Plaintiff to a racially and sexually hostile work environment from on or about August of 2018 to on or about May 16, 2019, and for violation of Title VII of the Civil Rights Act of 1964, as amended.

84. In her charge of discrimination which the Plaintiff first timely filed with the South Carolina Human Affairs Commission, the Plaintiff alleged that while employed with the Defendant “District” she was subject to a racially and sexually hostile work environment from August of 2018 through May of 2019.

85. The Defendants, and each of them, as above stated and repeated verbatim herein, caused the Plaintiff to work in an atmosphere of racial and sexual hostility, including frequent racial and sexual slurs, including verbal and physical abuse directed at the Plaintiff, including frequent degrading slurs and insults about her appearance, body and female anatomy, that was tacitly tolerated and not adequately or consistently addressed by the Defendants, and each of them.

86. The racially and sexually hostile work environment described above adversely affected the terms and conditions of Plaintiff’s employment with

the “District” and violated Plaintiff’s rights under 42 U.S.C. 2000(e).

87. As a direct and proximate result of Defendants’ conduct, as described above, in violation of 42 U.S.C. 2000(e), Plaintiff has suffered stress, anxiety, adverse physical symptoms, psychological disturbances, fear, and elevated high blood pressure, for which the Plaintiff had to seek medical treatment, incur medical expenses and miss time from work.

88. Defendants’ unlawful actions as described above were unlawful, knowingly and in reckless disregard of Plaintiff’s federally protected rights and Plaintiff is entitled to actual, consequential and compensatory damages as well as attorney fees and costs under 42 U.S.C. 2000(e) against all Defendants, and punitive damages against Defendants “Rodgers” and “Coker”.

FOR A FOURTH CAUSE OF ACTION
Violation of 42 U.S.C. 2000(d) *et. seq.*

89. Plaintiff repeats and realleges the preceding paragraphs as if restated verbatim herein.

90. The Defendant “District” and Daniel Jenkins Academy where the Plaintiff was employed at all relevant times hereto, are programs or activities receiving Federal financial assistance within the meaning of 42 U.S.C. 2000(d).

91. Each of the Defendants as set forth above excluded the Plaintiff from fully participating and denied the Plaintiff the benefits and subjected the Plaintiff to discrimination based on race and sex, in a program or activity receiving Federal financial assistance in violation of Plaintiff’s rights under 42 U.S.C.

2000(d) *et. seq.* by subjecting the Plaintiff to a racially and sexually hostile work environment due to her race and gender.

92. As a direct and proximate result of the Defendants' conduct in violation of 42 U.S.C. 2000(d) *et. seq.*, Plaintiff has been damaged in that she suffered adverse physical symptoms, stress, anxiety, fear, personality change, insomnia and depression for which she had to seek medical treatment, and Post Traumatic Stress, incur medical expenses and has been unable to work since May 16, 2019, and thereby has suffered severe income loss.

93. Defendants' unlawful actions were willful and in reckless disregard of Plaintiff's federally protected rights and Plaintiff is entitled to actual, consequential and compensatory damages as well as reasonable attorney fees and costs under 42 U.S.C. 1988 against all of the Defendants, and punitive damages against the Defendants "Rodgers" and "Coker".

WHEREFORE, having fully set forth her allegations against the Defendants, and each of them, the Plaintiff respectfully requests the following relief:

1. Compensatory damages for emotional trauma, mental anguish, and any physical symptoms of ill health, stress, anxiety, insomnia, change in her personality, medical expenses and income loss since May 16, 2019, to the present and continuing;
2. Actual damages against all of the Defendants;
3. Punitive damages against the Defendants "Rodgers" and "Coker";
4. Reasonable attorney fees and costs; and

5. For such other and further relief as this Court deems just and proper.

Plaintiff demands a Jury Trial.

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