

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

**JANET DONOVAN,**

:

**Plaintiff**

:

**CIVIL ACTION NO. 3:14-1657**

**v.**

:

**(JUDGE MANNION)**

**PITTSTON AREA SCHOOL  
DISTRICT, et al.,**

:

:

**Defendants**

:

:

**ORDER**

In light of the memorandum issued this same day, **IT IS HEREBY ORDERED THAT** defendants' motion to dismiss, (Doc. [11](#)), is **GRANTED IN PART** and **DENIED IN PART**. Counts I and III of plaintiff's amended complaint, (Doc. [9](#)), are **DISMISSED WITHOUT PREJUDICE** for failure to exhaust statutory remedies. Plaintiff's 14<sup>th</sup> Amendment substantive due process claim in Count II is **DISMISSED WITH PREJUDICE**. Plaintiff's constitutional claim against PASD is **DISMISSED WITHOUT PREJUDICE** to file a second amended complaint to properly state a procedural due process claim against this defendant under *Monell*. Plaintiff is directed to file her second amended complaint only to correct her defect as to PASD in Count II within **15 days** of the date of this Order. Plaintiff's claims against the five board of education members in their official capacity are **DISMISSED WITH**

**PREJUDICE.** Plaintiff's 14<sup>th</sup> Amendment procedural due process claim in Count II is **PERMITTED TO PROCEED** as against the five board of education members in their individual capacity. Plaintiff's claim for punitive damages in Count II against the five board members in their individual capacity is **PERMITTED TO PROCEED.** Plaintiff's claim for attorneys' fees in Count II is **PERMITTED TO PROCEED.**

*s/ Malachy E. Mannion*  
**MALACHY E. MANNION**  
United States District Judge

**Date: June 17, 2015**

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