

# Summary of the Claim

High Court of Sabah and Sarawak at Kota Kinabalu

[BKI-22NCvC-101/10-2018](#)

**Plaintiff: Siti Nafirah binti Siman**

Former SMK Taun Gusi student

Form 4 Perdagangan “4 PD” in 2015

## DEFENDANTS

**D1 — Mohd Jainal bin Jamran**

English teacher of Form 4 Perdagangan; servant of the Ministry of Education

**D2 — Hj. Suid Bin Hj. Hanapi**

Principal of SMK Taun Gusi; servant of the Ministry of Education

**D3 — Sekolah Menengah Kebangsaan Taun Gusi**  
National school under the Ministry of Education

**D4 — District Education Officer of Kota Belud**

District-level officer of the Ministry of Education

**D5 — Director of Education, Sabah**

State-level officer of the Ministry of Education

**D6 — Director General of Education Malaysia**

Advisor to the Minister of Education

**D7 — Minister of Education Malaysia**

Highest office in the Ministry of Education

**D8 — Government of Malaysia**

Employer and/or principal of all above defendants;  
defender of the Federal Constitution

## LAWS VIOLATED

### Public Officers (Conduct and Discipline) Regulations of 1993

- Regulations 3A, 3C(1), 3C(2), 23, 24, 25
- Breached by D1, D2, D4, D5, D6, D7, D8

### Education Act of 1996

- Failure to prepare for examinations, unlawful acts and omissions, no reasonable actions taken, right to a quality education
- Breached by D1, D2, D4, D5, D6, D7, D8

### Misfeasance in Public Office

- Committing unlawful acts and knowingly causing injury & losses while in capacity as public officers
- Committed by D1, D2, D4, D5, D6

### Federal Constitution

- Violations of articles 5 & 12 on right to education: no reasonable actions taken to prevent, willful and intentional acts and/or omissions, had knowledge or means of knowledge of harm inflicted
- Violated by D1, D2, D4, D5, D6, D7, D8

### United Nations Convention on the Rights of the Child (ratified by Malaysia in 1995)

- All relevant articles, including right to education
- Violated by D1, D2, D4, D5, D6, D7, D8

## FEBRUARY 2015

- D1 stopped entering 4 PD English lessons

## MARCH 2015

- D1 still refused to enter any 4 PD English lessons
- District, state, and national education officers were notified (D4, D5, D6, D7)

## APRIL 2015

- D1 still refused to enter any 4 PD English lessons
- Plaintiff pleaded with school assistant
- Principal notified; state education officer **again** notified (D2, D5)

## MAY 2015

- D1 still refused to enter any 4 PD English lessons

## JUNE 2015

- D1 still refused to enter any 4 PD English lessons
- District education officer **again** notified (D4)

## JULY 2015

- D1 still refused to enter any 4 PD English lessons
- State education officer **again** notified; admitted aware of long-term misconduct at school (D5)
- Plaintiff pleaded again with school assistant

## AUGUST 2015

- D1 still refused to enter any 4 PD English lessons, save one week
- Principal **again** notified; saw 4 PD's blank attendance book; district, state, & national education officers **again** notified, visited school, & refused meeting 4 PD students (D2, D4, D5, D6, D7)
- Principal, district education officer called meetings and requested two-week self-observation; both claimed ignorance of D1's absences sans two weeks prior; D1 confronted, yet refused to explain misconduct (D1, D2, D4)

## SEPTEMBER 2015

- D1 still refused to enter any 4 PD English lessons
- District education officer **again** notified and visited school, refused to discuss D1's continued absence (D4)

## OCTOBER 2015

- D1 still refused to enter any 4 PD English lessons
- Principal met 4 PD class; threatened to deny all remaining English lessons until students claimed responsibility for D1's absences and wrote favourable words about D1; students, in desperation and fear, signed such statements (D2)
- Principal instructed D1 to fabricate attendance signatures of 4 PD English lessons; claimed only two months versus an actual seven months (D1, D2)

## REMEDIES

- Declarations** that D1, D2, D4, D5, D6, D7, and D8 breached their statutory duties under the Education Act by (1) failing to teach her English from February to October 2015 and (2) failing to prepare her for examinations. Likewise, they (3) violated her constitutional right to access education under Article 5 & 12 under the Federal Constitution.
- Declaration** that D2, D4, and D5 (4) breached their duties under Regulation 3C, 25, and 26 of the Public Officers (Conduct and Discipline) Regulations 1993.
- Declaration** that the acts of by D1, D2, D4, D5, and D6 (5) amounted to misfeasance in public office.
- Exemplary, General, and Aggravated Damages; costs; and any further relief deemed fit and proper.