

1 Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq.; and (6) retaliation under the First Amendment,
2 42 U.S.C. § 1983. (See Dkt. 22, “First Amended Complaint” or “FAC” at ¶¶ 105-72). In their
3 Motion, defendants seek to dismiss plaintiff’s § 1983 claims, i.e., the first, second, third, and sixth
4 causes of action, on the grounds that: (1) defendants Hansen and Brooks (collectively, the
5 “individual defendants”) are entitled to qualified immunity, (see Dkt. 25, Motion at 13-19); and (2)
6 all defendants are entitled to Eleventh Amendment sovereign immunity. (See id. at 19-20).

7 I. QUALIFIED IMMUNITY.

8 To determine whether a government official is entitled to qualified immunity, the court must
9 consider: (1) whether, “[t]aken in the light most favorable to the party asserting the injury, . . . the
10 facts alleged show the [official’s] conduct violated a constitutional right[;]” and (2) “whether the right
11 was clearly established.” Saucier v. Katz, 533 U.S. 194, 201, 121 S.Ct. 2151, 2156 (2001),
12 modified by, Pearson v. Callahan, 555 U.S. 223, 227, 129 S.Ct. 808, 813 (2009) (holding that “the
13 Saucier procedure should not be regarded as an inflexible requirement”). However, as the Ninth
14 Circuit has recognized, a motion to dismiss on qualified immunity grounds puts the court in the
15 difficult position of attempting to decide “far-reaching constitutional questions on a nonexistent
16 factual record[.]” See Kwai Fun Wong v. United States, 373 F.3d 952, 957 (9th Cir. 2004). While
17 a defendant has the right to assert a qualified immunity defense in a motion to dismiss, “the
18 exercise of that authority is not a wise choice in every case[.]” particularly when discovery would
19 “readily reveal” whether plaintiff’s claims were baseless. See id. (“The ill-considered filing of a
20 qualified immunity appeal on the pleadings alone can lead not only to a waste of scarce public and
21 judicial resources, but to the development of legal doctrine that has lost its moorings in the
22 empirical world, and that might never need to be determined were the case permitted to proceed,
23 at least to the summary judgment stage.”); see also Alvarado v. Litscher, 267 F.3d 648, 651 (7th
24 Cir. 2001) (“[A] complaint is generally not dismissed under Rule 12(b)(6) on qualified immunity
25 grounds.”); id. (“Because an immunity defense usually depends on the facts of the case, dismissal
26 at the pleading stage is inappropriate: [T]he plaintiff is not required initially to plead factual
27 allegations that anticipate and overcome a defense of qualified immunity.”) (internal quotation
28 marks omitted). Under the circumstances, the court declines to address the affirmative defense

1 of qualified immunity at this time; Hansen and Brooks may raise it in the context of a motion for
2 summary judgment.

3 II. SOVEREIGN IMMUNITY.

4 The Eleventh Amendment bars the federal courts from entertaining suits brought by a
5 private party against states and its agencies or departments, regardless of the relief sought.
6 Federal Maritime Com'n v. South Carolina State Ports Auth., 535 U.S. 743, 765, 122 S.Ct. 1864,
7 1877 (2002) (state sovereign immunity applies “regardless of whether a private plaintiff’s suit is
8 for monetary damages or some other type of relief”); Puerto Rico Aqueduct and Sewer Auth. v.
9 Metcalf & Eddy, Inc., 506 U.S. 139, 146, 113 S.Ct. 684, 689 (1993) (states and their agencies
10 retain Eleventh Amendment immunity against all suits in federal court). In the context of civil rights
11 claims brought against a state pursuant to 42 U.S.C. § 1983, it is well established that “[t]he
12 Eleventh Amendment bars such suits unless the State has waived its immunity[.]” Will v. Michigan
13 Dept. of State Police, 491 U.S. 58, 66, 109 S.Ct. 2304, 2309 (1989). Accordingly, a state is not
14 a “person” within the meaning of § 1983. Id. at 71, 109 S.Ct. at 2312. Similarly, a governmental
15 entity that is an “arm of the State” is not a “person” within the meaning of § 1983, and therefore
16 enjoys the same Eleventh Amendment immunity accorded to the states. Howlett v. Rose, 496
17 U.S. 356, 365, 110 S.Ct. 2430, 2436 (1990); Will, 491 U.S. at 70, 109 S.Ct. at 2312. For purposes
18 of the Eleventh Amendment, a school district is considered an agent of the state. See Belanger
19 v. Madera Unified Sch. Dist., 963 F.2d 248, 254 (9th Cir. 1992) (“The court determined that the
20 school district is an agent of the state[.]”).

21 In general, “the eleventh amendment bars actions against state officers sued in their official
22 capacities for past alleged misconduct involving a complainant’s federally protected rights, where
23 the nature of the relief sought is retroactive, i.e., money damages[.]” Bair v. Krug, 853 F.2d 672,
24 675 (9th Cir. 1988). However, “where the relief sought is prospective in nature and is based on
25 an ongoing violation of the plaintiff’s federal constitutional or statutory rights[.]” Central Reserve
26 Life of N. Am. Ins. Co. v. Struve, 852 F.2d 1158, 1161 (9th Cir. 1988) (emphasis omitted), a suit
27 seeking prospective injunctive relief may proceed. See Edrosa v. Chau, 2020 WL 5500217, *5
28 (S.D. Cal. 2020).

1 Here, plaintiff seeks declaratory and injunctive relief² against the District and the individual
2 defendants in their official capacities for alleged violations of her First and Fourteenth Amendment
3 rights. (See Dkt. 22, FAC at ¶¶ 120, 138, 147 & 172). While plaintiff may seek prospective relief
4 against Hansen and Brooks in their official capacity as state officials, she may not seek
5 prospective relief from the District itself. See Dittman v. California, 191 F.3d 1020, 1025 (9th Cir.
6 1999) (“[A]gencies of the state are immune from private damage actions or suits for injunctive
7 relief brought in federal court.”) (internal quotation marks omitted); Ford v. Artiga, 2013 WL
8 820146, *3 (E.D. Cal. 2013) (“[A] demand for prospective relief as an exception to sovereign
9 immunity only applies in an action against a state official [and] not in an action against a state or
10 agency itself.”) (internal citations omitted).

11 Finally, to the extent the individual defendants are being sued in their individual capacities,
12 sovereign immunity does not apply. See, e.g., Royzman v. Lopez, 2023 WL 2026537, *10 (S.D.
13 Cal. 2023) (“Section 1983 does, however, cover state officials sued in their individual capacities,
14 and sovereign immunity does not apply to individual-capacity defendants.”); Chamndany v.
15 Harding, 2022 WL 19263348, *14 (C.D. Cal. 2022) (where plaintiff explicitly brought suit against
16 defendants in their individual capacities, finding “based on its allegations, the Complaint
17 adequately brings suit against Defendants in their individual capacities such that sovereign
18 immunity under the Eleventh Amendment is not implicated”). Plaintiff alleges that she requests
19 monetary damages only from the individual defendants in their individual capacities, and not from
20 the District. (See Dkt. 22, FAC ¶¶ 121, 139, 148 & 172); (Dkt. 28, Plaintiff’s Opposition to
21 Defendants’ Motion to Dismiss at 8). In addition, the individual defendants have asserted qualified
22 immunity, which is available only in individual capacity actions. See Cmty. House, Inc. v. City of
23 Boise, Idaho, 623 F.3d 945, 965 (9th Cir. 2010) (“Qualified immunity . . . is a defense available
24 only to government officials sued in their individual capacities. It is not available to those sued
25

26 ² Specifically, plaintiff seeks “[a] declaratory judgment that the District’s Directives are
27 unconstitutional,” “[a] declaratory judgment that the District’s directives violate FEHA and Title VII,”
28 and “[t]emporary, preliminary, and permanent injunctive relief requiring the District to reinstate
Plaintiff’s employment[.]” (See Dkt. 22, FAC at Prayer for Relief).

