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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

MAE M., through her guardian ad litem Anthony M., SUSAN C., through her guardian ad litem Sabrina C., GWEN S., through their guardian ad litem Ramona S., CARSON L., through his guardian ad litem Nancy L., DAVID P., through his guardian ad litem RACHEL P., VIOLET B., through her guardian ad litem INEZ B., STELLA B., through her guardian ad litem INEZ B., TEMECULA VALLEY EDUCATORS ASSOCIATION, AMY EYTCHISON, KATRINA MILES, JENNIFER SCHARF, and DAWN SIBBY,

Plaintiffs,

v.

JOSEPH KOMROSKY, JENNIFER WIERSMA, DANNY GONZALEZ, ALLISON BARCLAY, and STEVEN SCHWARTZ, in their official capacities as members of TEMECULA VALLEY UNIFIED SCHOOL DISTRICT BOARD OF TRUSTEES, TEMECULA VALLEY UNIFIED SCHOOL DISTRICT, and DOES 1 – 20,

Defendants.

Case No.: CVSW2306224

**FIRST AMENDED COMPLAINT
UNLIMITED JURISDICTION
JURY DEMANDED**

Before: Honorable Raquel A. Marquez

Date: December 12, 2023

Time: 8:30 a.m.

Dept. S303

1 **PRELIMINARY STATEMENT**

2 1. This lawsuit challenges actions taken by the Temecula Valley Unified School District
3 (“TVUSD”) Board of Trustees (the “Board”) to censor Temecula educators and infringe on Temecula
4 schoolchildren’s fundamental right to an education, causing them irreparable harm.

5 2. On December 13, 2022, the Board enacted Resolution No. 2022-23/21
6 (“Resolution 21” or the “Resolution”), which prohibits the teaching of a sweeping and ill-defined range
7 of content referred to as “Critical Race Theory or other similar frameworks.”¹ The vague Resolution
8 hinders Temecula educators’ ability to teach State-mandated content standards, prepare for the coming
9 academic year, and support rather than stifle student inquiry. In turn, Temecula students are deprived of
10 the opportunity to engage in factual investigation, freely discuss ideas, and develop critical thinking and
11 reasoning skills. While harming all schoolchildren, the Resolution in particular injures children of color
12 and LGBTQ children, stigmatizing their identities, histories, and cultures.

13 3. The Board escalated its attack on LGBTQ children on August 22, 2023, enacting Board
14 Policy 5020.01 (“Policy 5020.01” or the “Policy”),² which forces Temecula educators to “out” students
15 who identify as transgender or gender nonconforming to their parents or guardians.

16 4. The Board’s actions violate California constitutional and statutory provisions securing the
17 right to education and to receive information, the right to due process, the right to privacy, and the right
18 to be free from discrimination on the basis of race, sex, gender identity, and sexual orientation.

19 5. To prevent these irreparable harms, Plaintiffs—the Temecula Valley Educators
20 Association, as well as individual Temecula teachers, students, and parents—seek an Order declaring that
21 the Resolution and the Policy are unconstitutional and unlawful, and enjoining the Board from
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23 _____
24 ¹ TVUSD, Resol. No. 2022-23/21, Resolution of the Board of Trustees of TVUSD Prohibiting the
25 Teaching of Critical Race Theory (2022) [hereinafter Resol. 21]. A copy of Resolution 21 is attached to
26 this Complaint as Exhibit 1. Although it includes a “DRAFT” watermark, the Exhibit is the final adopted
27 version. TVUSD, Regular Meeting of the Board of Trustees of the Temecula Valley Unified School
28 District | 12/13/2022 - 04:00 PM, Meeting Minutes (Dec. 13, 2022), [https://
simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030186&MID=16350](https://simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030186&MID=16350)

² TVUSD, *Policy 5020.1: ^Parental Notification* [hereinafter “Policy 5020.1”]. A copy of the Policy is
attached to this Complaint as Exhibit 2.

1 implementing or enforcing them.³

2 BACKGROUND

3 6. Public schools “are the nurseries of democracy.”⁴ The schoolhouse is where children first
4 encounter a broad range of ideas and perspectives and, in learning to assess their relative merits, acquire
5 the critical thinking skills necessary for meaningful participation in civic and economic life. The State of
6 California and the nation’s highest courts have underscored that education is the “foundation of good
7 citizenship,” critical to “the performance of our most basic public responsibilities” in a democracy.⁵

8 7. Recognizing that public schools ensure “the preservation of the rights and liberties of the
9 people,”⁶ the framers of this State’s Constitution enshrined education as a fundamental right for all
10 Californians.⁷ As the California Supreme Court explained, education is the prerequisite to “participation
11 in,” and therefore the overall “functioning of, a democracy.”⁸ Like voting, education is “a fundamental
12 right because it is ‘preservative of other basic civil and political rights.’”⁹

13 8. In light of the foundational role that education plays in our democracy, courts have
14 vigilantly guarded students’ right to receive information against partisan and racially discriminatory “laws
15 that cast a pall of orthodoxy over the classroom.”¹⁰ As the Supreme Courts of the United States and
16 California have repeatedly emphasized, freedom of inquiry is “nowhere more” paramount than in public
17 schools,¹¹ because “[t]he classroom is peculiarly the ‘marketplace of ideas.’ The Nation’s future depends
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20 ³ Plaintiffs’ counsel sent a demand letter to the Board and its counsel on June 28, 2023. On July 5, Board
21 counsel replied that the Board intended to discuss the matter at its July 18 meeting, after which Board
22 counsel would respond substantively to Plaintiffs’ demand. After receiving no further communication
23 from Board counsel, Plaintiffs filed this lawsuit on August 2.

24 ⁴ *Mahanoy Area Sch. Dist. v. B. L. ex rel. Levy*, 141 S. Ct. 2038, 2046 (2021).

25 ⁵ *Serrano v. Priest*, 5 Cal. 3d 584, 606 (1971) (quoting *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954)).

26 ⁶ Cal. Const. art. IX, § 1.

27 ⁷ *Serrano*, 5 Cal. 3d at 605–09; *Butt v. State of California*, 4 Cal. 4th 668, 681, 683, 685–88, 692 (1992).

28 ⁸ *Id.* at 607.

⁹ *Id.* at 608 (quoting *Reynolds v. Sims*, 377 U.S. 533, 562 (1964)).

¹⁰ *White v. Davis*, 13 Cal. 3d 757, 769 (1975) (quoting *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967)).

¹¹ *Id.* (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).

1 upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth ‘out
2 of a multitude of tongues, (rather) than through any kind of authoritative selection.’”¹² Courts have thus
3 struck down school officials’ attempts to restrict access to information “in a narrowly partisan or political
4 manner,” deeming it obvious that students’ rights would be infringed, for example, “[i]f a Democratic
5 school board, motivated by party affiliation, ordered the removal of all books written by or in favor of
6 Republicans,” or “if an all-white school board, motivated by racial animus, decided to remove all books
7 authored by blacks or advocating racial equality and integration.”¹³

8 9. Nearly 40 years ago, the California Supreme Court presciently observed that, “[w]ith the
9 rise of the electronic media and the development of sophisticated techniques of political propaganda and
10 mass marketing, education plays an increasingly critical role in fostering ‘those habits of open-
11 mindedness and critical inquiry which alone make for responsible citizens[.]’”¹⁴ Educators need the
12 latitude to model curiosity and freedom of thought through “precept and practice,” so that “the very
13 atmosphere . . . they generate” invites students to consider and debate competing viewpoints.¹⁵

14 10. Learning is stymied, however, where the conditions for robust inquiry are denied.¹⁶

15 11. Resolution 21, enacted by a 3–2 vote of the TVUSD Board of Trustees, effects just such
16 a denial.¹⁷ As the first major action by the Board’s newly elected majority, the Resolution follows an
17 openly ideological campaign “to stop the indoctrination of . . . children by placing candidates on school
18 boards who will fight for Christian and Conservative values.”¹⁸

19 12. Resolution 21, attached in its entirety as Exhibit 1, violates constitutional mandates by
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21 ¹² *Keyishian*, 385 U.S. at 603 (quoting *United States v. Associated Press*, 52 F. Supp. 362, 372 (S.D.N.Y.
22 1943), *aff’d*, 326 U.S. 1 (1945)); *White*, 13 Cal. 3d at 769 (same).

23 ¹³ *Bd. of Educ. v. Pico*, 457 U.S. 853, 870–71 (1982).

24 ¹⁴ *Hartzell v. Connell*, 35 Cal. 3d 899, 908 (1984) (quoting *Wieman v. Updegraff*, 344 U.S. 183, 196 (1952)
(Frankfurter, J., concurring)).

25 ¹⁵ *Wieman*, 344 U.S. at 196 (Frankfurter, J., concurring).

26 ¹⁶ *Id.*

27 ¹⁷ Resol. 21, *supra* note 1.

28 ¹⁸ Inland Empire Fam. PAC [hereinafter IEF PAC], *Home* (2023), <https://iefamilypac.org/>, *archived at*
<https://perma.cc/34ET-7L9Q>.

1 discriminating on the basis of viewpoint, prohibiting the teaching of “topics related to race” through the
2 lens of “Critical Race Theory or other similar frameworks.”¹⁹ To the extent such ideas may be introduced
3 at all, the Resolution commands teachers to “focus[] on [their] flaws.”²⁰ Although the Resolution is
4 framed as a ban on “Critical Race Theory,”²¹ that term has been deployed by the Board as a catchall for
5 concepts as varied as race and systemic racism;²² sex and sex discrimination; gender identity; sexual
6 orientation; diversity, equity, and inclusion; implicit bias; culturally responsive education; and social
7 emotional learning.²³ Teachers are thus left to guess at which topics they can teach and what questions
8 they can answer.

9 13. Resolution 21 imposes severe, even career-ending penalties on teachers who introduce
10 ideas that could arbitrarily be seen as questioning the viewpoints endorsed by members of the Board.²⁴
11 Its effects have been far-reaching and immediate. In addition to delaying the adoption of State standards-
12 compliant history and social studies instruction for the coming year, the Resolution has already, and
13 predictably, chilled teaching across the District. Teachers attempting to comply with State standards are
14 confronting numerous questions for which the Resolution’s indeterminate provisions have no answer.

16 ¹⁹ Resol. 21, *supra* note 1.

17 ²⁰ *Id.*

18 ²¹ Black’s Law Dictionary defines “critical race theory” as “[a] reform movement within the legal
19 profession, particularly within academia, whose adherents believe that the legal system has disempowered
20 racial minorities.” *Black’s Law Dictionary* (11th ed. 2019). Critical race theory, according to one court,
“challenges the universality of white experience/judgment as the authoritative standard.” *Benner v. St. Paul*
Pub. Sch., I.S.D. #625, 380 F. Supp. 3d 869, 876 (D. Minn. 2019).

21 ²² Systemic racism is racism “embedded in laws, policies[,] and institutions that uphold and reproduce
22 racial inequalities.” NAACP Legal Defense Fund, *Critical Race Theory Frequently Asked Questions* (2023),
<https://www.naacpldf.org/critical-race-theory-faq/>.

23 ²³ See, e.g., Maya King, *Could a School-Board Fight Over Critical Race Theory Help Turn Virginia Red?*, Politico
24 (July 7, 2021) (“Across the country, critical race theory—a legal/academic framework Republicans have
25 conflated to define all race and gender-based equity work in public schools—is shaping fights in a
number of suburban jurisdictions.”).

26 ²⁴ TVUSD Resolution No. 2022-23/20 (“Resolution 20”) references regulations “which impose sanctions
27 on any . . . employee who engages in racist conduct.” Read in tandem with Resolution 21, which was
28 passed concurrently and which characterizes “Critical Race Theory” as “a racist ideology” (and, by
extension, the teaching of “Critical Race Theory or other similar frameworks” as “racist conduct”), Resol.
21, *supra* note 1, Resolution 20 delineates the sanctions applicable to teachers who violate Resolution 21.

1 For example:

- 2 ○ Can a U.S. History teacher facilitate a discussion—as the California History-Social Science Framework instructs—on the question: “Did the Civil Rights Movement succeed?”²⁵
- 3
- 4 ○ Can a U.S. History teacher draw parallels between nineteenth century nativism and efforts to repatriate Mexican- and Filipino-Americans during the Great Depression,²⁶ or the passage of Proposition 187 in 1994?²⁷
- 5
- 6 ○ Can a U.S. Government teacher, when asked about the role of race in police officers’ use of excessive force, explore with the class the history of police violence against African-
- 7 Americans and its impact on the Civil Rights Movement and today’s social movements?²⁸
- 8 ○ Can a U.S. Government teacher discuss evidence of anti-Japanese animus in *Korematsu v. United States* or present-day examples of government discrimination against particular
- 9 groups?²⁹

10 14. The Resolution’s vague language provides no answers. Instead, it imposes another,
11 unconstitutional burden on educators still recovering from the unprecedented challenges of teaching
12 through a global pandemic. At a time when California school districts—including Temecula³⁰—are
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14 ²⁵ Cal. Dep’t of Educ., *California History-Social Science Framework* [hereinafter HSS Framework] 414 (2016),
15 <https://www.cde.ca.gov/ci/hs/cf/documents/hssframeworkwhole.pdf>. In this Complaint, California’s
16 history and social science content standards and framework are referred to collectively as the “HSS curriculum.”

17 ²⁶ See Cal. Dep’t of Educ., *California History-Social Science Content Standards* [hereinafter HSS Standards] 39
18 (1998), <https://www.cde.ca.gov/be/st/ss/documents/histsocscistnd.pdf> (requiring eighth graders to be
19 able to “discuss the new wave of nativism” in response to the Industrial Revolution); HSS Framework at
20 276 (eighth graders “study the social, economic, and political barriers encountered by both immigrants
and American citizens of Mexican ancestry,” including “the Chinese Exclusion Act (1882) and the
Immigration Act of 1917”); *id.* at 399 (describing “repatriation drives” as an outgrowth of economic
crisis).

21 ²⁷ *E.g.*, HSS Framework at 91 (describing how the passage of Proposition 187 “to deny all social services
to undocumented residents,” along with Proposition 63 to establish English as California’s “official
22 language,” led to “an unwelcome environment for immigrants to” the State).

23 ²⁸ See *id.* at 418 (describing “police violence against African Americans” as a catalyst for strategic change
in the Civil Rights Movement); *id.* at 780 (“Citizens are often confronted with compelling questions
24 related to civics . . . such as . . . Is police use of deadly force compatible with due process?”).

25 ²⁹ See *id.* at 445 (calling for “critical reading of [decisions including] *Korematsu v. United States*” to “remind
students that racial discrimination affected” Asian Americans); *id.* at 405 (Executive Order 9066 “violated
26 [Japanese Americans] constitutional and human rights”); HSS Standards at 50–51 (requiring students to
be able to discuss “constitutional issues . . . including the internment of Japanese Americans (e.g., *Fred*
27 *Korematsu v. United States of America*)”).

28 ³⁰ TVUSD, Regular Meeting of the Board of Trustees of the Temecula Valley Unified School District |

1 struggling to recruit and retain qualified teachers,³¹ the Board has threatened those who remain with the
2 loss of their livelihood if they interpret the Resolution’s vague and sweeping proscriptions differently
3 than the Board might later arbitrarily dictate. Unsurprisingly, teachers have steered clear of any topic or
4 classroom conversation that could be construed as conflicting with the Board’s partisan viewpoint.

5 15. This result, a classic chilling effect, is no accident. All three of the new Board members—
6 Joseph Komrosky (the Resolution’s sponsor), Jennifer Wiersma, and Danny Gonzalez—were backed by
7 the Inland Empire Family PAC (“IEF PAC”), which drove a concerted effort to flip school boards across
8 Southwest Riverside County in November 2022.³² Led by Tim Thompson, a pastor of the 412 Church,³³
9 the IEF PAC began in 2017 when parents got a copy of a Comprehensive sex education curriculum that
10 was taught in a Temecula Valley classroom. This bold indoctrination forced many into action Much
11 has changed since then and the threats have increased. Critical Race Theory, state mandates and the
12 sexualization of our children are now national issues.³⁴

13 16. At the beginning of the 2022 campaign season, the IEF PAC held an “endorsement draft,”
14 a riff on the NFL draft.³⁵ Hosting the event, Thompson condemned the public school system as “Satan’s
15 playground.”³⁶ Onstage with Thompson, the future Board members denounced racial equity and LGBTQ
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18 05/16/2023 - 04:00 PM, Meeting Minutes (May 16, 2023), [https://simbli.eboardsolutions.com/
19 SB_Meetings/ViewMeeting.aspx?S=36030186&MID=19903](https://simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030186&MID=19903) (recording passage of “Declaration of Need
for Fully Qualified Educators for the 2023/2024 school year”).

20 ³¹ Hart Rsch. Assocs., *Voices from the Classroom: Developing a Strategy for Teacher Retention and Recruitment 3*
21 (2022), [https://www.cta.org/wp-content/uploads/2022/09/Voices-from-the-Classroom-CTA-Survey-
Report.pdf](https://www.cta.org/wp-content/uploads/2022/09/Voices-from-the-Classroom-CTA-Survey-Report.pdf).

22 ³² IEF PAC, *Meet the Candidates* (2023), <https://iefamilypac.org/meet-the-candidates/>, *archived at*
23 <https://perma.cc/QD9W-N56U>.

24 ³³ 412 Temecula Valley, *Pastor Tim Thompson / Senior Pastor* (2023), [https://412temecula.com/
staff/pastortim/](https://412temecula.com/staff/pastortim/), *archived at* <https://perma.cc/UFF6-ADBA>.

25 ³⁴ IEF PAC, *supra* note 18.

26 ³⁵ Our Watch, *ie Family PAC Draft – Meet school board candidates of Meniffee, Temecula, Murrieta, and Lake*
27 *Elsinore*, YouTube (Mar. 2, 2022) [hereinafter IEF PAC Draft], [https://www.youtube.com/watch?v=
7wEBdcbRUng](https://www.youtube.com/watch?v=7wEBdcbRUng).

28 ³⁶ *Id.* at 0:37:35, <https://youtu.be/7wEBdcbRUng?t=2255>.

1 rights,³⁷ echoing the IEF PAC’s website, which describes “The Problem In Schools” as being “Growing
2 Indoctrination,” “Critical Race Theory,” “Forced LGBTQ+ Acceptance,” “Perverted Sexual Training,”
3 and “Transgenderism Encouraged.”³⁸

4 17. Once in office, the new Board members rushed to enact the Resolution, disregarding
5 District policies and procedures,³⁹ ignoring community concerns, and dismissing the expertise of
6 Temecula’s educators. Shortly after enacting the Resolution, Defendants Komrosky and Wiersma
7 appeared on national news, touting the new measure and calling for “boots on the ground” to monitor
8 “what’s going on in the classrooms.”⁴⁰ During the segment, Komrosky promised enforcement against
9 “rogue teachers” allegedly engaged in “manipulation, brainwashing, and indoctrination.”⁴¹

10 18. Opposition to the Resolution has galvanized a large-scale student movement in
11 Temecula. Following a strong presence opposing the Resolution at the December 13 Board meeting,
12 TVUSD high school students organized multiple demonstrations.⁴² At Great Oak High School,
13 approximately 350 students protested the Resolution, bearing signs that read “Protect Our Education,”
14 “Teach the Truth,” and “Do Not Censor.”⁴³ Sienna Andrade, the student body co-president, told the
15 Press-Enterprise that the Resolution “censor[ed] history,” and underscored that the protest was part of
16 “a student-run movement . . . to stand up for what we believe in. We have the right to make change and
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19 ³⁷ See IEF PAC Draft, *supra* note 35.

20 ³⁸ IEF PAC, *supra* note 18.

21 ³⁹ *Infra* paras. 132–137.

22 ⁴⁰ *California school board votes to ban CRT*, Fox News (Dec. 18, 2022), <https://www.foxnews.com/video/6317456791112>.

23 ⁴¹ *Id.*

24 ⁴² *E.g.*, Allyson Vergara, *Temecula students walk out in protest of new critical race theory ban*, Press-Enterprise
25 (Dec. 16, 2022), [https://www.pressenterprise.com/2022/12/16/temecula-students-walk-out-in-protest-](https://www.pressenterprise.com/2022/12/16/temecula-students-walk-out-in-protest-of-new-critical-race-theory-ban/)
26 [of-new-critical-race-theory-ban/](https://www.pressenterprise.com/2022/12/16/temecula-students-walk-out-in-protest-of-new-critical-race-theory-ban/). The Resolution’s supporters have targeted student leaders and their
27 families on an anonymous website and on social media. We the Parents of Temecula, (2023),
28 <https://www.wetheparentsoftemecula.com/>, *archived at* <https://perma.cc/85MJ-6BL3>; We the Parents
and Teachers of TVUSD, Instagram (2023), [https://www.instagram.com/](https://www.instagram.com/we_the_parents_tvusd/)
[we_the_parents_tvusd/](https://www.instagram.com/we_the_parents_tvusd/).

⁴³ Vergara, *supra* note 42.

1 have our voices heard.”⁴⁴

2 19. The demonstrations included a coordinated walkout on January 13, 2023, which brought
3 together upwards of 650 students from Temecula’s three comprehensive high schools, along with parents
4 and other community supporters.⁴⁵ Amidst signs reading “TVHS Students Will Not Be Silenced” and
5 “Listen to Student Voices,” student protesters chanted “Teach all history!” and voiced concerns about
6 the Resolution “censor[ing] their education and that of younger students, while affecting the
7 representation and safety of students of color and LGBTQ students.”⁴⁶

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⁴⁴ *Id.*

26 ⁴⁵ Allyson Vergara, *Temecula students walk out to protest critical race theory ban*, Press-Enterprise (Jan. 13, 2023),
27 [https://www.pressenterprise.com/2023/01/13/temecula-students-walk-out-to-protest-critical-race-
theory-ban/](https://www.pressenterprise.com/2023/01/13/temecula-students-walk-out-to-protest-critical-race-theory-ban/).

28 ⁴⁶ *Id.*

1 **Figure 1: Great Oak High School students protest the Resolution, December 16, 2022.**⁴⁷



13 20. Notwithstanding this community and student pushback, the Board redoubled its efforts
14 in March 2023, approving the expenditure of \$15,000 of District monies to hire Christopher Arend, who
15 originally authored several of the Resolution’s provisions and who has made multiple statements denying
16 the existence of systemic racism and employing pernicious racial stereotypes, as a consultant to train
17 TVUSD staff.⁴⁸

18 21. On March 22, the Board held an “expert panel workshop” to “raise awareness of CRT
19 and the various tenants [sic] associated with it.”⁴⁹ Although promoted as an opportunity for “[t]he public

20 _____
21 ⁴⁷ MediaNews Group/The Riverside Press-Enterprise via Getty Images (2022).

22 ⁴⁸ TVUSD, *Regular Meeting of the Board of Trustees of the Temecula Valley Unified School District 03/14/2023*
23 *0:400 PM, Item O.2 Consultant Agreement: Arend Law Firm* (Mar. 14, 2023), [https://](https://simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030186&MID=19013)
24 simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030186&MID=19013. Because the
25 District needed to hire substitute teachers to cover for staff attending the trainings, union president Diaz
26 estimated a true cost to the District of up to \$30,000. Nova Blanco-Rico, *Critical race theory consultant hired*
27 *for \$15,000 by Temecula school board*, Press-Enterprise (Mar. 15, 2023),
28 [https://www.pressenterprise.com/2023/03/15/critical-race-theory-consultant-hired-for-15000-by-](https://www.pressenterprise.com/2023/03/15/critical-race-theory-consultant-hired-for-15000-by-temecula-school-board/)
[temecula-school-board/](https://www.pressenterprise.com/2023/03/15/critical-race-theory-consultant-hired-for-15000-by-temecula-school-board/).

⁴⁹ Press Release, TVUSD, *Temecula Valley Unified School District Governing Board Hosts Expert Panel Workshop*
(Mar. 10, 2023), <https://www.tvusd.k12.ca.us/site/default.aspx?PageType=3>

1 . . . to hear diverse viewpoints” from “a diverse panel of experts,”⁵⁰ the panelists were Arend and five
2 other partisan commentators.⁵¹ The meeting devolved into chaos after a white attendee told Deon
3 Hairston—a Black teacher who criticized the Resolution during public comment—to “get out of the
4 country,” and Defendant Komrosky first responded by ejecting Hairston rather than his heckler.⁵²

5 22. The Board members’ desire to impose their ideological viewpoints on Temecula’s
6 students led to a months-long delay in adopting—as well as selective censorship of—grades 1–5 history
7 and social science curricula and instructional materials.⁵³ Flouting its own codified and customary policies
8 and procedures, the Board spurned the expertise of District leaders and a committee of 47 teachers
9 representing all of TVUSD’s elementary sites who piloted the recommended materials during the 2022–
10 23 academic year. After first declining even to vote on the District- and teacher-endorsed curricula and

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13 &DomainID=8346&ModuleInstanceID=59378&ViewID=6446EE88-D30C-497E-9316-
14 3F8874B3E108&RenderLoc=0&FlexDataID=47602&PageID=23355, available at [https://perma.cc/
UD82-MWJJ](https://perma.cc/UD82-MWJJ).

15 ⁵⁰ *Id.*

16 ⁵¹ Esther Valdes-Clayton, a San Diego immigration attorney and former Coronado Unified School
17 District Board member, moderated the panel. The remaining panelists were Arend, Wenyuan Wu
18 (executive director of the Californians for Equal Rights Foundation, which attacks “Woke Culture” that
19 “often takes on euphemisms such as Diversity, Equity & Inclusion (DEI), Racial Justice, Allyship,
20 Critical Consciousness,” *Don’t Divide Us* (2023), <https://cferfoundation.org/>, archived at
21 <https://perma.cc/YK2N-WEEG>), Walter H. Myers, III (board member of the Discovery Institute,
22 which advocates for the teaching of “intelligent design” as an alternative to Darwinian evolution), Joseph
23 Nalven (anthropologist), and Brandy Shufutinsky (activist whose organization has called for the removal
of “one-sided, neo-Marxist” agendas from California’s ethnic studies model curriculum, Alliance for
Constructive Ethnic Studies, *Black Americans for Inclusive Ethnic Studies* (2023),
<https://www.calethstudies.org/ethnic-studies-black-americans-for-inclusive-ethnic-studies>, archived at
<https://perma.cc/6VL7-5DMT>).

24 ⁵² Khaleda Rahman, *Black Man Removed from School District’s CRT Event Speaks Out*, Newsweek (Mar. 30,
2023), <https://www.newsweek.com/black-man-removed-crt-event-speaks-out-1791531>.

25 ⁵³ During debate, Defendant Komrosky voiced concern that adopting the District- and teacher-endorsed
26 materials would allow the insertion of critical race theory. TVUSD, *May 16, 2023, 6:00 PM - Open Session -
27 TVUSD Governing Board Meeting* [hereinafter May 16 Board Meeting] at 2:05:20, YouTube (May 16, 2023),
https://youtu.be/ABcKfZu7_pU?t=7520. As an alternative, Defendant Wiersma referenced a Christian
28 homeschool curriculum that does not remotely meet California’s content standards. *See id.* at 1:47:25,
https://youtu.be/ABcKfZu7_pU?t=6445.

1 instructional materials,⁵⁴ the Board twice rejected them outright.⁵⁵ Finally, less than a month before the
2 beginning of the school year, the Board adopted grades 1–5 history and social science curricula and
3 instructional materials, but disallowed teachers from introducing State-mandated information about the
4 LGBTQ rights movement and leaders, including Harvey Milk.⁵⁶

5 23. Most recently, the Board has called for the removal from school libraries of books that
6 express ideas with which members disagree. At the July 18 Board meeting, Defendant Komrosky read a
7 list of 16 books that “are in our libraries,” including *The Kite Runner* by Khaled Hosseini, *The Bluest Eye* by
8 Toni Morrison, and *Looking for Alaska* by John Green, before demanding to know “who put these books
9 [there].”⁵⁷ Defendant Gonzalez characterized the Board’s discussion as “an attempt to be a little more
10 proactive as a District” and asked whether “we can agree on some content that we just absolutely would
11 not allow.”⁵⁸ Gonzalez further proposed “flag[ging] books that may be potentially having material that . .
12 . would be objectionable,” as well as “man[ning]” a committee to determine which books to censor.⁵⁹

13 24. Nearly forgotten amidst the Board’s political grandstanding are the students and teachers
14

15 ⁵⁴ See TVUSD, *April 11, 2023 - 6:00 PM - Open Session - TVUSD Governing Board Meeting* at 2:48:49,
16 YouTube (Apr. 11, 2023), https://youtu.be/AsN_hpJFLNI?t=10129 (noting removal of agenda item).

17 ⁵⁵ May 16 Board Meeting at 2:14:30, https://youtu.be/ABcKfZu7_pU?t=8070; TVUSD, *July 18, 2023,*
18 *6:00 PM – Open Session – TVUSD Governing Board Meeting* [hereinafter July 18 Board Meeting] at 4:48:16,
YouTube (July 18, 2023), https://youtu.be/NN-Z_IcswqM?t=17296.

19 ⁵⁶ TVUSD, *JUL-21-2023 7:30 PM* \diamond *Special Meeting* \diamond *TVUSD Governing Board*, YouTube (July 21, 2023),
20 <https://www.youtube.com/watch?v=yqY34hx2B3k>. California law requires school boards to adopt only
instructional materials that

21 accurately portray the cultural and racial diversity of our society, including: (a) The
22 contributions of both men and women in all types of roles, . . . (b) The role and
23 contributions of Native Americans, African Americans, Mexican Americans, Asian
24 Americans, Pacific Islanders, European Americans, lesbian, gay, bisexual, and transgender
Americans, persons with disabilities, and members of other ethnic and cultural groups to
the total development of California and the United States.

25 Cal. Educ. Code § 60040.

26 ⁵⁷ July 18 Board Meeting at 3:16:08, https://youtu.be/NN-Z_IcswqM?t=11768.

27 ⁵⁸ *Id.* at 3:19:17, https://youtu.be/NN-Z_IcswqM?t=11957.

28 ⁵⁹ *Id.* at 3:19:25, https://youtu.be/NN-Z_IcswqM?t=11975.

1 the Board ostensibly serves. Elementary school teachers—who typically devote three months to planning
2 their lessons under a new curriculum⁶⁰—were given only 24 days to prepare for this school year. Middle
3 and high school teachers are also questioning whether topics or materials in their courses could arbitrarily
4 be found noncompliant and erring on the side of exclusion. In June, the Board fired the District’s well-
5 regarded and longstanding superintendent,⁶¹ voting to spend \$50,000 in District monies to retain an
6 Illinois search firm.⁶² And parents—many of whom moved to the District for the quality of its public
7 schools—are now considering uprooting their families so that their children can receive an education on
8 par with that of their peers elsewhere in the State.⁶³

9 25. Since the filing of this lawsuit on August 2, the Board has intensified its attacks on
10 LGBTQ students. A week into the school year, the Board passed a coercive outing policy that targets
11 students who identify as transgender or gender nonconforming. Policy 5020.01 is identical to the Chino
12 Valley Unified School District (“Chino Unified”) coercive outing policy that the San Bernardino County
13 Superior Court blocked on September 6.⁶⁴ It requires TVUSD teachers and staff to out transgender and
14 gender nonconforming students to their parents or guardians, regardless of whether students consent,
15 and it mandates the official documentation of these forced disclosures.⁶⁵

16 **PARTIES**

17 **EDUCATOR PLAINTIFFS**

18 26. **Plaintiff Temecula Valley Educators Association (“TVEA”)** is a teachers’
19 union based in Temecula, California. It is an affiliate of the California Teachers Association.
20 TVEA represents TVUSD teachers, nurses, counselors, social workers, psychologists, and speech

21 _____
22 ⁶⁰ See *supra* para. 37.

23 ⁶¹ Mallika Seshadri, *Temecula Valley school board fires superintendent Jodi McClay as protests erupt outside*,
24 EdSource (June 13, 2023), <https://edsources.org/2023/temecula-valley-school-board-fires-superintendent-jodi-mcclay-as-protests-erupt-outside/692340>.

25 ⁶² TVUSD, *June 27, 2023 - 6:00 PM - Open Session - TVUSD Governing Board Meeting*, YouTube (June 27,
2023), <https://www.youtube.com/watch?v=n9AbxLIH6YA&t=359s>.

26 ⁶³ See *Butt*, 4 Cal. 4th at 685.

27 ⁶⁴ *People v. Chino Valley Unified Sch. Dist.*, No. CIV SB 2317301 (Cal. Super. Ct. San Bernardino Cnty., Sept.
28 6, 2023) (temporary restraining order).

⁶⁵ Policy 5020.1, *supra* note 2, at 1–2.

1 pathologists. Neither the claims asserted nor the relief requested herein require the participation of
2 TVEA members.

3 27. Encompassing public education professionals at 18 elementary schools, six middle
4 schools, four high schools, and one adult school, TVEA advocates for over 1,325 members in Temecula,
5 Murrieta, and Winchester. TVEA members work, reside, and/or pay taxes in Riverside County. In total,
6 they serve over 30,000 students in kindergarten through 12th grade.

7 28. By censoring ideas and modes of inquiry disfavored by certain Board members, the
8 Resolution has made it impossible for TVEA educators at every grade level to meet their professional
9 obligations to their students and teach the concepts mandated under State law and District policy. As
10 described *infra*, the Resolution has forced TVEA members to change their lesson plans; stop teaching
11 books that address racial and other forms of inequality; censor their instruction and answers to student
12 questions on standards-mandated topics; and limit classroom conversations to avoid being reported.

13 29. Although TVEA has no way of parsing the Resolution's vague language, it is having to
14 field countless questions from teachers and administrators regarding what they can and cannot teach, and
15 what questions they can and cannot answer, under the Resolution. Since December, the vast majority of
16 TVEA meetings have been dedicated to addressing the Resolution, and particularly to supporting
17 teachers who fear losing their livelihoods if they are accused of violating it.

18 30. Over the summer, the Board significantly delayed the adoption of grades 1–5 history and
19 social science curricula and instructional materials, giving elementary school educators across the District
20 only 24 days to prepare for the coming year. The Board has also restricted use of the materials it did
21 adopt, excising information about the LGBTQ rights movement and its leaders from classroom
22 instruction.

23 31. Most recently, Policy 5020.1 has jeopardized TVEA members' ability to support LGBTQ
24 students by requiring them to out students to their parents anytime they learn that a student is identifying
25 as a gender other than that assigned to them at birth. The Policy has undermined the trust between
26 TVEA members and their LGBTQ students, driving teachers to steer far clear of any issues involving
27 gender identity or expression and transforming District classrooms into unsafe environments in which
28 LGBTQ students must constantly be on their guard.

1 32. TVEA has diverted significant organizational resources toward redressing the Board’s
2 actions. It has repeatedly sent representatives to Board meetings to underscore the harms being suffered
3 by teachers and students throughout the District. Using the hashtag #BlueTuesdays, it has encouraged
4 community members to attend Board meetings wearing blue in opposition to curricular restrictions and
5 in support of LGBTQ students. It created a website, Textbooks 4 Teaching, to inform community
6 members about the need for standards-compliant instructional materials.⁶⁶ It sent a letter to the Board
7 challenging Policy 5020.1.⁶⁷ And it has organized multiple rallies with the goal of moving the Board to
8 act.⁶⁸

9 33. TVEA’s members include individual teacher **Plaintiffs Amy Eytchison, Katrina Miles,**
10 **Jennifer Scharf, and Dawn Sibby.**

11 34. **Plaintiff Amy Eytchison** is a 26-year veteran teacher in TVUSD. She currently teaches
12 fourth grade at Temecula Elementary School, where she has taught for the past 20 years. Ms. Eytchison
13 estimates that she has had over 600 students during her career in the District. She also serves teachers
14 throughout the District as TVEA’s Secretary, a role she has held for 10 years.

15 35. Nearly 65 percent of students at Temecula Elementary qualify for free or reduced price
16 meals—the highest rate of any elementary school in the District.⁶⁹ Over 82 percent identify as multiracial
17 or of color.⁷⁰ Ms. Eytchison has heard Board supporters claim that “we need to shield children from
18 hard topics like racial inequality.” But for Ms. Eytchison’s students, learning about racial inequality is not
19 a choice. It is a fact of their lived experience.

21 ⁶⁶ Temecula Valley Educators Association, *Textbooks 4 Teaching* (2023), <https://tveducators.wixsite.com/tveacares/textbooks>, archived at <https://perma.cc/5YCP-SKD4>.

22 ⁶⁷ Letter from Edgar Diaz, TVEA President to Board of Education, Temecula Valley Unified School
23 District (Sept. 7, 2023).

24 ⁶⁸ E.g., Nova Blanco-Rico, *Temecula teachers, parents protest rejection of curriculum that mentions Harvey Milk*,
25 Press-Enterprise (June 6, 2023), <https://www.pressenterprise.com/2023/06/06/temecula-teachers-parents-protest-rejection-of-curriculum-that-mentions-harvey-milk/>.

26 ⁶⁹ Cal. Dep’t of Educ., *Unduplicated Student Poverty — Free or Reduced-Price Meals Data 2022–23* (2023),
27 <https://www.cde.ca.gov/ds/ad/documents/frpm2223.xlsx>.

28 ⁷⁰ Cal. Dep’t of Educ. Data Quest, *2022-23 Enrollment by Ethnicity, Temecula Elementary* (2023),
<https://dq.cde.ca.gov/dataquest/dqcensus/EnrEthLevels.aspx?cds=33751926108427&agglevel=School&year=2022-23>.

1 36. The Board’s actions undermine Ms. Eytchison’s ability to maintain trust with her diverse
2 students. She explains: “The Resolution prevents me from having honest conversations with my students
3 and building the relationships that are so important to my job. My students are not afraid to ask hard
4 questions, and they know whether I am being authentic. If I can’t speak with them honestly, then what is
5 my job?” Policy 5020.1 particularly diminishes Ms. Eytchison’s ability to provide a safe and supportive
6 learning environment for her students who identify as LGBTQ. Multiple students have come out to Ms.
7 Eytchison during her time in TVUSD, which Ms. Eytchison credits to the trust, now threatened, she has
8 been able to build in her classroom.

9 37. Ms. Eytchison has been harmed by the Board’s delayed adoption of a censored
10 elementary-level history and social science curriculum. She and her colleagues intended to begin lesson
11 planning for the 2023–24 school year in mid-May, following the expected approval of the District- and
12 teacher-endorsed curriculum. But until July 21, without knowing which (if any) curriculum the Board
13 would adopt, Ms. Eytchison had no way of preparing her history and social science lessons, and was
14 unable to complete them before classes resumed. Because of the Board’s delay, Ms. Eytchison will not
15 begin teaching social science until the end of October—more than two months into the school year.

16 38. More fundamentally, the Board’s actions have compromised Ms. Eytchison’s ability to
17 comply with State content standards. California expects fourth graders to learn about the State’s history
18 of movements for civil rights.⁷¹ Topics of study include “the emergence of the nation’s first gay rights
19 organizations in the 1950s,” advocacy “for the right of gay men and women to teach” in the 1970s, and
20 the struggle for marriage equality in the 2000s, “culminating in the 2013 and 2015 U.S. Supreme Court
21 decisions *Hollingsworth v. Perry* and *Obergefell v. Hodges*.”⁷² Students are to learn about contributions of
22 leaders including Harvey Milk, “California’s first openly gay public official.”⁷³ Ms. Eytchison can either
23 comply with the Board’s directive (thereby failing to meet State content standards), or teach the
24 forbidden concepts (thereby jeopardizing her job).

25 39. These uncertainties have led Ms. Eytchison to experience anxiety in the classroom. She is

26
27 ⁷¹ HSS Framework at 89.

⁷² *Id.* at 90.

28 ⁷³ *Id.*

1 constantly asking herself, “Oh, can I say this? Can I not?” She and her fellow teachers feel compelled to
2 skirt around complex topics lest a student take offense.

3 40. **Plaintiff Katrina Miles** is a 20-year veteran teacher in TVUSD. She currently teaches
4 sixth grade English and Drama at Temecula Middle School, where she also advises the Black Student
5 Union. Ms. Miles’s son attends a middle school in the District.

6 41. Ms. Miles grew up in southeast Texas shortly after formal desegregation. Her mother
7 worked as a server in a white social club that did not allow Black people to be members. While attending
8 a segregated middle school, Ms. Miles found a lifeline in her sixth grade teacher, who helped her
9 overcome her family’s financial hardship and fostered a classroom environment that “made [her] feel
10 visible.” This experience inspired Ms. Miles to complete a master’s degree in English and become a
11 teacher. Her family later moved to San Diego, where Ms. Miles was bussed daily to a predominantly
12 white high school.

13 42. Ms. Miles attended Arend’s “training” hoping that he would parse the Resolution’s broad
14 language. Not only did Arend fail to clarify the Resolution, but his repeated assertion that racism is no
15 longer significant baffled Ms. Miles. As a Black woman, Ms. Miles knows the emotional and
16 psychological toll that both systemic and individual racism inflict on people of color.

17 43. The Board’s actions have already impacted the information available to students at Ms.
18 Miles’s school. For example, every year for the past six years, all of Temecula Middle School’s sixth grade
19 teachers taught their classes Mildred D. Taylor’s *Roll of Thunder, Hear My Cry*. But since the Resolution,
20 Ms. Miles—the school’s sole Black educator—has been the only teacher to keep the book in her
21 curriculum. Having personally experienced racial segregation, Ms. Miles knows how important it is for
22 students to understand that racial inequities are not confined to the distant past and to develop
23 compassion for people whose backgrounds are different from their own. Even though she has taken
24 pains to change the way she teaches the book—by, for example, avoiding using group terms like “white”
25 and giving only circumscribed answers when her students ask about anti-Black violence—Ms. Miles fears
26 she will face retaliation as a result of her decision. She wonders how the Board’s actions will affect her
27 son and her increasingly diverse classes of students.

28 44. **Plaintiff Jennifer Scharf** has been a Temecula resident and Great Oaks High School

1 teacher for 16 years. She is also the head of Great Oaks’s English Department. Ms. Scharf teaches A.P.
2 English Language and Composition, which enrolls mostly 10th graders, and 12th grade Expository
3 Reading and Writing. Both of Ms. Scharf’s children attend Great Oaks High School.

4 45. Ever since the Resolution’s enactment, Ms. Scharf has been inundated with questions
5 from members of her department about what books and ideas they can and cannot teach. For example,
6 multiple teachers have asked Ms. Scharf whether the Resolution permits them to continue assigning Toni
7 Morrison’s *Beloved*, a novel that deals with racial oppression and the traumas of slavery. Because the
8 Resolution’s language is so unclear, Ms. Scharf does not know how to respond.

9 46. For Ms. Scharf, the Resolution exemplifies a growing trend of ideological attempts to
10 remove books from Temecula’s classrooms. For example, the District in 2021 required A.P. English
11 Language and Composition teachers to stop teaching Rebecca Skloot’s *The Immortal Life of Henrietta Lacks*
12 after a parent complained that the book’s depiction of Ms. Lacks’s discovery of a cervical tumor was
13 “pornographic.” Recognizing the book’s value,⁷⁴ Ms. Scharf and other teachers recently sought the
14 District’s approval to assign it in 12th grade Expository Reading and Writing, which would require the
15 District to obtain additional copies. Although the teachers complied with Board and District
16 requirements, the District has yet to act on their request. On information and belief, the District’s failure
17 to act is a result of the Board’s passage and implementation of the Resolution.

18 47. The Resolution has also limited Ms. Scharf’s ability to teach books that are already part of
19 her curriculum, including *Just Mercy*, by the lawyer Bryan Stevenson. *Just Mercy* recounts Stevenson’s
20 representation of low-income clients and clients of color, addressing the impacts of poverty and
21 discrimination on the basis of race, sex, and disability. Whereas Ms. Scharf typically contextualizes the
22 book by discussing the origins of inequities in the U.S. criminal justice system, she circumscribed those
23 lessons this year. Doing so “felt awful because I’m introducing my students to these important and
24 serious topics, but without the support and guidance I normally provide.”

26
27 ⁷⁴ The widely-acclaimed book recounts the story of Henrietta Lacks, a Black woman whose cells were
28 taken without her informed consent and then used to make medical advances that generated significant
wealth, none of which redounded to her family. It prompts students to engage with questions about
ethics, scientific inquiry, human dignity, racial inequality, and healthcare disparities.

1 48. Since the beginning of the 2023–24 school year, Ms. Scharf has fielded numerous
2 questions and concerns from teachers and students about Policy 5020.1. The day after the Policy’s
3 enactment, two junior English teachers in Ms. Scharf’s department asked her how to respond to the
4 Policy. One had already received an email from a student fearful of being outed. A former student of Ms.
5 Scharf’s recently informed her that, due to Policy 5020.1, LGBTQ students have been warning each
6 other to not tell teachers anything about their gender identities, which has effectively forced some
7 students back into the closet. Ms. Scharf’s own child, who identifies as LGBTQ, has seen the Board’s
8 actions embolden hostility and bullying by students with anti-LGBTQ views.

9 49. **Plaintiff Dawn Sibby** has lived in Temecula for over 30 years and has taught in TVUSD
10 for 28 years. She currently teaches 10th grade World History and 12th grade U.S. Government at
11 Temecula Valley High School.

12 50. The Resolution has forced Ms. Sibby to alter her teaching approach and lesson plans and
13 restricted her ability to teach State-mandated content. For example, California expects 10th graders to
14 learn how European powers “justified their conquests by asserting arguments of racial hierarchy and
15 cultural supremacy, offering a vision of civilization in contrast to what they argued were ‘backward’
16 societies.”⁷⁵ Knowing this may cause some students to feel discomfort, Ms. Sibby has tried to avoid using
17 the term “white” when discussing European imperialism. But she has no idea how to meet the State’s
18 requirements without acknowledging that groups of people have been oppressed on the basis of race.
19 Ms. Sibby worries that if she uses the “wrong” language or if a student misinterprets her words, she may
20 be reported to school officials and subject to discipline.

21 51. Indeed, many of the topics Ms. Sibby is responsible for teaching in World History require
22 her to discuss concepts that may run afoul of the Resolution. For example, Ms. Sibby must teach about
23 the Armenian Genocide,⁷⁶ which opens her up to accusations of teaching that an individual may belong
24 to a racial group that either inflicts or suffers harm.

25 52. Similar challenges arise in 12th grade Government. California expects 12th graders to be
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27 ⁷⁵ HSS Framework at 334.

28 ⁷⁶ *Id.* at 343–44.

1 able to “[e]xplain the controversies that have resulted over changing interpretations of civil rights,
2 including those in *Plessy v. Ferguson* . . . and *United States v. Virginia*.”⁷⁷ Ms. Sibby does not know how to
3 meet this requirement without teaching that individuals have experienced discrimination on the basis of
4 race and sex. Additionally, and consistent with State standards,⁷⁸ Ms. Sibby structures many of her
5 classroom conversations around current events. Topics include “immigration and refugee policies,”
6 “racism and sexism,” and “discrimination against members of the LGBT community.”⁷⁹ Ms. Sibby has
7 no way to determine what she can or cannot say in these discussions.

8 53. Many of Ms. Sibby’s Government students have asked her about the Resolution.
9 Although these are precisely the type of questions Ms. Sibby would typically encourage—and mirror
10 those posed in the HSS curriculum⁸⁰—she is concerned that responding honestly and accurately will
11 subject her to reprisal. Ms. Sibby thus seeks to deflect such inquiries, even though she knows that her
12 reticence discourages further engagement from her students.

13 54. Since the Board’s enactment of Policy 5020.1, Ms. Sibby has also been avoiding the issue
14 of gender in her class discussions lest a student’s identification as transgender or gender nonconforming
15 force her to out them.

16 55. In September, after seeing a proposed policy on the Board’s agenda which would ban all
17 flags from TVUSD campuses except U.S. and California flags,⁸¹ Ms. Sibby took down from her
18 classroom walls a rainbow pride flag and a transgender pride flag, which she had hung so that LGBTQ
19 students would feel seen and respected in her classroom.

20 56. Ms. Sibby is dismayed that the Board rushed to enact the Resolution and the Policy

21
22 ⁷⁷ HSS Standards at 56.

23 ⁷⁸ See HSS Framework at 454 (“Structured classroom discussions . . . challenge students to discuss current
24 events and issues of their choosing by analyzing various perspectives, researching causes and effects,
evaluating policy options, and stating and supporting reasoned and evidence-based opinions.”).

25 ⁷⁹ *Id.* at 454–55.

26 ⁸⁰ *Id.* at 437 (instructing 12th grade Government teachers to “prompt their students to consider how
27 certain liberties, such as the freedom of speech, religion, or privacy, have been and may be restricted in a
democratic system”).

28 ⁸¹ The policy was adopted by a 3–2 vote of the Board at its September 12, 2023 meeting. TVUSD, *SEP*
12 2023 Governing Board Meeting [hereinafter Sept. 12 Board Meeting] at 3:43:55, YouTube (Sept. 15,
2023), https://youtu.be/EY15Ue8ZwU4?si=_4sFGV8RHdpRnNZU&t=13435.

1 without considering—and often, outright ignoring—the input of teachers, administrators, students, and
2 staff. She is experiencing significant anxiety not only for herself, but also for the young teachers she
3 mentors, including a second-year teacher whose school administration forced her to remove a poster of
4 Harvey Milk from her classroom. Although her mentees have contacted her for advice, Ms. Sibby does
5 not know how to guide them.

6 **STUDENT AND PARENT PLAINTIFFS**

7 57. **Plaintiff Mae M.** is a 16-year-old Black student and a senior at a TVUSD high school.
8 She has attended TVUSD schools since second grade, when her family moved to Temecula for its
9 excellent school system. Mae M. aspires to attend Howard University and study business.

10 58. Mae M. is currently taking U.S. Government. California expects her to study the
11 difference between authoritarian and democratic governments to understand the importance of “open
12 educational institutions” and “free speech” in the United States.⁸² Government students also examine
13 why authoritarian leaders “harass critics of their government” and otherwise suppress dissent.⁸³ Mae M.
14 knows that her ability to learn about these topics will be compromised by the Board’s silencing of
15 opposing viewpoints. She witnessed her A.P. U.S. History teacher instruct the class to read on their own
16 when topics like racial discrimination arose.

17 59. Mae M. is a leader in her school’s Black Student Union (“BSU”), which she joined
18 following a racist incident at her school. The BSU provides Black students a space to develop friendships
19 and learn, not just with each other but with students from all backgrounds with an interest in Black
20 history and culture. When students experience racist harassment, like being called the n-word or other
21 slurs, the BSU offers a community of supportive peers.

22 60. Since the Resolution’s enactment, the BSU has had to dedicate nearly all of its meetings
23 to dealing with the impacts of the Board’s censorship. Mae M. has found herself serving as a
24 spokesperson not only for Black students, but also for other students of color and LGBTQ students who
25 are harmed by the Board’s actions. From speaking at Board meetings to organizing demonstrations, Mae
26

27 ⁸² HSS Framework at 452.

28 ⁸³ *Id.*

1 M.'s leadership in Temecula's student movement has required enormous amounts of time, energy, and
2 attention.

3 61. Because of these efforts, Mae M. and her parents have become the targets of significant
4 harassment and retaliation by the Board's supporters. After the December 13, 2022 Board meeting, a
5 Facebook group publicized the identities of Mae M. and other students who spoke against the
6 Resolution. Anonymous adults also created a website and Instagram account, "We the Parents of
7 Temecula," where they have posted pictures of and vilified Mae M. and her family. Board supporters
8 have yelled at and threatened Mae M.'s parents at meetings.

9 62. Mae M. has also faced harassment from other students. On January 11, as Mae M. was
10 posting a flyer for a demonstration, a student tore the flyer from the wall, called her a "fucking retard,"
11 and threw the flyer in the trash. The next day, Mae M. received an anonymous file transfer of the flyer
12 with "Bitchass" written across it. During the protest, students threw food—including applesauce, fruit
13 cups, sandwiches, and juice bags—at Mae M. and other protesting students. Although Mae M. and her
14 parents have reported this harassment to District officials—who have repeatedly witnessed it themselves
15 and promised to address it—no one has taken any action. Recognizing the constant stress and pressure
16 their daughter is feeling, Mae M.'s parents have sought out mental healthcare for her.

17 63. Most frighteningly, supporters of the Resolution have threatened Mae M. and her parents
18 with violence, forcing them to live in a constant state of vigilance and concern for their physical
19 security.⁸⁴ At this point, Mae M.'s parents just want her to finish high school safely and graduate with a
20 public education equivalent to that of her peers across the State.

21 64. **Plaintiff Susan C.** is a 17-year old Black student and a senior at a TVUSD high school.
22 Susan C. dreams of going to Howard University and becoming a nurse or a teacher.

23 65. Susan C., who has taken A.P. World History and A.P. U.S. History, rejects the claim that
24 the District's history teachers are attempting to indoctrinate their students. The content Susan C. has
25

26 ⁸⁴ These concerns are real: between 2021 and 2022, hate crimes motivated by anti-Black animus have
27 increased by 27.1 percent, from 513 to 652. See Cal. Dep't Just., *2022 Hate Crime in California* 29 (June 27,
28 2023), <https://oag.ca.gov/system/files/attachments/press-docs/Hate%20Crime%20In%20CA%202022f.pdf>.

1 learned in her history classes has been fact-based, not opinion-driven. For example, Susan C. learned
2 about how *Plessy v. Ferguson* used the doctrine of “separate but equal” to justify racial segregation.⁸⁵ As
3 Susan C. recognizes, “That isn’t my teacher’s opinion. It is history.”

4 66. Before the Board’s actions, Susan C. had heard from teachers that her high school was
5 considering offering an A.P. African American Studies course. Susan C. was excited to study topics
6 omitted from her A.P. U.S. History course, such as the contributions of Black women like Ella Baker and
7 Fannie Lou Hamer to the struggle for equal rights. To her disappointment, Susan C. believes that the
8 current Board will not approve the course.

9 67. Outside of the classroom, Susan C. is a leader on her campus, most recently serving as
10 junior class president. She is presently the BSU president. Susan C. worries about the organization’s
11 future. Board supporters have harassed BSU advisers at multiple schools, including Susan C.’s. Susan C.
12 has witnessed the strain this has inflicted on her BSU adviser, who is one of the only Black teachers at
13 her high school.

14 68. Susan C. values the BSU as a space to discuss Black history and achievement and support
15 peers who experience racist abuse. When Susan C. was in middle school, a student called her the n-word,
16 but administrators took no action. In high school, Susan C. has witnessed students using racist and anti-
17 LGBTQ slurs and calling people of color “dirty.” Classmates have touched her hair without her
18 permission. Previously a member of the cheer team, Susan C. left after teammates used the n-word and
19 posted racist comments on TikTok. For Susan C. and other students who have undergone similar
20 experiences, the BSU has been a place of comfort and connection.

21 69. While managing the BSU’s social media this spring, Susan C. used Instagram to advocate
22 against the Resolution. She posted information about a protest, which her principal asked her to take
23 down. Susan C. also shared publicly available information about Moms for Liberty, a group that
24 Defendant Wiersma listed among her endorsements.⁸⁶ In response to this advocacy, Susan C.’s school
25

26 ⁸⁵ See HSS Standards at 56.

27 ⁸⁶ Odette Yousef, *Moms for Liberty among conservative groups named ‘extremist’ by civil rights watchdog*, NPR (June
28 7, 2023), <https://www.npr.org/2023/06/07/1180486760/splc-moms-for-liberty-extremist-group>; Jen
Wiersma (@jen4tvusd), Instagram (Nov. 7, 2022), <https://www.instagram.com/p/CkqeIi8JNBi/>.

1 administrators threatened her with discipline.

2 70. Adults have targeted Susan C. directly for speaking out against the Resolution. They have
3 taken and posted pictures of her, along with derogatory captions, on Instagram and on an anonymous
4 website. One adult confronted Susan C. during a Board meeting and tried to take the conversation
5 outside. As she begins her senior year, Susan C. worries for her safety amidst the turmoil and tension all
6 around her.

7 71. **Plaintiff Gwen S.** is a 16-year-old Vietnamese-American student and a junior at a
8 TVUSD high school. After eighth grade, Gwen S.'s family moved to Temecula so that Gwen S. could
9 attend one of the District's excellent high schools. Gwen S. hopes to attend college at a U.C. campus and
10 pursue a career in STEM.

11 72. Gwen S. identifies as a non-binary and queer person. During their first year of high
12 school, Gwen S. joined the Gender and Sexuality Alliance ("GSA") to build community with other
13 students, learn about LGBTQ history, and advocate for a safe and inclusive school environment. In the
14 GSA, Gwen S. found a place to make friends and feel more at home in their new city. Gwen S. now
15 serves as one of the GSA's co-leaders.

16 73. LGBTQ students at Gwen S.'s high school are frequently the targets of anti-LGBTQ
17 slurs.⁸⁷ Last year, members of the football team taunted a queer member of the choir, shouting slurs
18 about the person's sexual orientation during a performance at a school rally. In addition, Gwen S. has
19 seen teachers refusing to use people's identified pronouns and mocking non-binary and trans identities.
20 Although Gwen S. is aware of many instances of bias-based bullying, they have never seen school
21 officials respond to it. The Board's decision to excise queer leaders from history materials exacerbates the
22 District's anti-LGBTQ climate.

23 74. Gwen S. is dismayed by the Board's escalating assaults on LGBTQ students. Policy
24 5020.1's forced outing provisions are causing Gwen S. to experience stress and anxiety, because they do

26 ⁸⁷ Across California, anti-LGBTQ violence rose by 28.4 percent between 2021 and 2022. Cal. Dep't Just.,
27 *supra* note 84. And Resolution 21 is part of an unprecedented wave of anti-LGBTQ legislation being
28 introduced and enacted across the country. See Alexandra E. Petri, *Anti-LGBTQ+ laws put U.S. in a state of*
emergency, *Human Rights Campaign says*, L.A. Times (June 6, 2023), <https://www.latimes.com/world-nation/story/2023-06-06/anti-lgbtq-laws-us-state-of-emergency-human-rights-campaign>.

1 not want information about their gender identity to be included in their school records. As Gwen S.
2 explains: “I want to be able to disclose that at my own will.” Gwen S. has also witnessed peers suffering
3 mental strain and fear as a result of the Policy, including missing school. Others, confused as to whom—
4 if anyone—they can come out to on campus without being outed at home, have chosen not to come out
5 at all. Many have expressed that it is safer to hide their gender identities at school rather than undergo a
6 forced outing to unsupportive parents.

7 75. Prior to the Resolution and the Policy, Gwen S. and other GSA members planned to
8 collect testimonies about students’ experiences to advocate for school-wide responses to bias-based
9 bullying. They also planned to invite a representative from the Human Rights Campaign, an organization
10 that works to end anti-LGBTQ discrimination, to discuss potential actions the GSA could take to
11 support LGBTQ students in school. The passage of the Resolution, however, forced Gwen S. and the
12 GSA to focus their efforts on opposing its restrictions. The Board’s actions have also caused the GSA to
13 lose its teacher adviser, who recently stepped down after 10 years of supporting the organization. As a
14 gay woman, the adviser worried that if she remained in her role, she would be labeled a “groomer” and
15 her students would be targeted by the Board’s supporters. As Gwen S. explained: “People would say she
16 is indoctrinating us.” Gwen S. and the other GSA leaders were forced to find a new adviser, which was
17 challenging because even teachers who support their efforts do not want to be harassed. The GSA’s new
18 adviser does not identify as LGBTQ, and Gwen S. and their peers feel the absence of a trusted teacher
19 who was part of their community.

20 76. The Board’s supporters have even accused Gwen S. of being a “groomer.” When
21 Gwen S. shares GSA meeting topics with their school community on Instagram, the Board’s supporters
22 “repost our announcements and say we are grooming by talking about gender.”

23 77. The Board’s actions have negatively impacted Gwen S.’s classroom experiences.
24 Gwen S.’s ethnic background includes countries in Asia that were colonized by western powers. Beyond
25 “this country conquered that country,” Gwen S. knows that students should be asking about why
26 colonization happened, how colonizers attempted to justify it, and what impacts it had on people subject
27
28

1 to colonial rule.⁸⁸ But the Resolution stymies these questions. Also, whereas students previously had the
2 opportunity to discuss racial and gender justice issues while reading books like *To Kill A Mockingbird*, such
3 dialogue has dwindled, and teachers have cut off discussion altogether when students have asked about
4 the Resolution. The Resolution has even caused Gwen S. to self-censor. Assigned to present on a
5 playwright of their choosing, Gwen S. selected Howard Zinn. Because they could not discuss racial
6 oppression, Gwen S. omitted from their presentation the racial justice issues that inspired Zinn’s
7 writings, which themselves have been the target of book banning efforts.⁸⁹

8 78. This year, Gwen S. is studying U.S. History. California expects 11th graders to “examine
9 the emergence of a movement for LGBT rights,” including the role of California-based groups and
10 leaders.⁹⁰ Students are to learn about how LGBTQ mobilization led to gains like the extension of the
11 right to marry to same-sex couples.⁹¹ Gwen S. is concerned that their teacher will be discouraged from
12 discussing this history for fear of being punished or labelled a “groomer.”

13 79. Since last December, Gwen S. has spent significant time and effort opposing the Board’s
14 policies. At the December 13 Board meeting, Gwen S. arrived right after school—around 4 p.m.—and
15 signed up to comment on the Resolution, which was the last agenda item. Along with other students,
16 Gwen S. was shunted aside by the Resolution’s supporters, who spoke during the general comment
17 period at the meeting’s outset. Many students had to leave the meeting at 10 p.m. and were denied the
18 ability to comment. Although it was a school night before final exams, Gwen S. stayed to oppose the
19 Resolution, which would block movement toward the more inclusive curriculum for which the GSA
20 advocates. Gwen S. was finally allowed to speak at around 11 p.m.

21 80. The December 13 Board meeting was the first Gwen S. had ever attended. Gwen S. was
22 taken aback by the adults shouting at parents and teachers and belittling LGBTQ students. One adult
23

24 ⁸⁸ HSS Standards at 43–44 (asking students to “[e]xplain imperialism from the perspective of the
25 colonizers and the colonized and the varied immediate and long-term responses by the people under
colonial rule”).

26 ⁸⁹ Elizabeth A. Harris & Alexandra Alter, *Book Ban Efforts Spread Across the U.S.*, N.Y. Times (Jan. 30,
27 2022), <https://www.nytimes.com/2022/01/30/books/book-ban-us-schools.html>.

28 ⁹⁰ HSS Framework at 421.

⁹¹ *Id.* at 421–22.

1 said that if students could identify however they wanted, he would identify as “a Black lesbian woman.”
2 Gwen S. noticed that when people spoke against the Resolution, Board members let attendees shout at
3 them. But when people spoke in favor of the Resolution, Board members threatened to remove those
4 who expressed their disagreement. Gwen S. is disheartened that the Board passed the Resolution without
5 seeking students’ thoughts on the curriculum or asking about discrimination or bullying at their schools.
6 No one was even consulted. Instead, whenever Gwen S. and other students have tried to exercise their
7 freedom of speech, they have been heckled and met with hate and animosity. In Gwen S.’s words: “It has
8 made me afraid of my community, in a way.”

9 81. Last year, the City Council invited GSAs from across the District to City Hall for a
10 proclamation honoring Pride Month. This was meaningful to Gwen S. because it felt like the City and
11 community “wanted to listen to us and at least respect us.” But even this ended in January, when the
12 Council voted to stop issuing such proclamations.⁹²

13 82. Since the beginning of the school year, Gwen S. has coordinated various actions to
14 support TVUSD’s transgender and gender nonconforming students. They participated in a walkout and
15 are planning additional demonstrations with their peers. They also encouraged students to attend the
16 August 22 Board meeting to oppose the Policy, creating and distributing fliers with information about
17 the Policy and its harms for transgender and gender nonconforming students. The Board’s attacks on
18 LGBTQ students have left Gwen S. exhausted and forced them to take time from their schoolwork to
19 fight for their peers. Gwen S. finds it hard to pull up to school every day.

20 83. **Plaintiff Carson L.** is an Asian-American senior at a TVUSD high school. His goal is to
21 become a civil rights lawyer. Carson L. loves studying English, and he is an active member of his school’s
22 mock trial and speech and debate teams. He enjoys the humanities and social sciences because unlike in
23 science and math, where you have to do things in a specific way to find one right answer, these classes
24 allow students to assess different viewpoints and develop their own opinions. And they feel very
25 relevant, often addressing current events.

26
27 ⁹² Allyson Vergara, *Temecula council won’t declare Black, Hispanic, Asian heritage months or Pride Month*, Press-
28 Enterprise (Jan. 11, 2023), <https://www.pressenterprise.com/2023/01/11/temecula-council-wont-declare-black-hispanic-asian-heritage-months-or-pride-month/>.

1 84. Carson L. has heard teachers at his school talk about how scared they are of the Board
2 retaliating against or firing them for teaching materials that touch on racial or gender injustice. For
3 example, his I.B. English class read *Beloved*, which is impossible to teach without talking about the history
4 and impacts of racial oppression in the United States. Carson L. has noticed that many teachers have
5 been more cautious and less willing to ask students to weigh the merits of competing ideas. He worries
6 that the Resolution will prevent teachers from fully explaining issues and answering questions out of fear
7 of being reported by ideologically motivated students.

8 85. Carson L. is taking A.P. U.S. Government and A.P. U.S. History this year. He knows that
9 people have different perspectives on the significance of historical moments, like the framing of the U.S.
10 Constitution. Carson L. is troubled by the Resolution’s requirement that teachers present only one side
11 of historical events, and by the fact that Board members have acted to erase parts of history that they
12 don’t like. Carson L. fears that the Board’s actions will deny him the opportunity to develop disciplinary
13 skills, such as connecting past events to current issues, and content knowledge that will be foundational
14 to his future work in the social sciences.

15 86. As a student taking multiple advanced classes, Carson L. worries that the Resolution’s ban
16 on required topics could cause these classes to lose their certifications, as the College Board has
17 warned.⁹³ But his primary concern is readiness for life after high school. In his own words: “You can’t
18 prepare for something if you can’t learn about it in school. It affects everyone’s preparation for college
19 and overall level of knowledge.” Carson L. is struck by how many adults in his community believe that
20 systemic racism no longer exists. He sees systemic racism—such as the repeated incidents of police
21 brutality against Black people—as an obvious feature of life in the United States.

22 87. Carson L. was an organizer of the student walkouts, and he prepared a public comment
23 that he was not allowed to deliver at either the December 13 or January 18 Board meetings. After one
24 meeting, he and other students called on Board members to create an advisory panel to give students a
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26 ⁹³ College Board, *What AP Stands For*, AP Central (2023), [https://apcentral.collegeboard.org/about-](https://apcentral.collegeboard.org/about-ap/what-ap-stands-for/)
27 [ap/what-ap-stands-for/](https://perma.cc/L64U-ENYJ), archived at <https://perma.cc/L64U-ENYJ> (“**AP opposes censorship**. AP is
28 animated by a deep respect for the intellectual freedom of teachers and students alike. If a school bans
required topics from their AP courses, the AP Program removes the AP designation from that course
and its inclusion in the AP Course Ledger provided to colleges and universities.” (emphasis in original)).

1 voice in decisions impacting their education. Despite the students’ continued advocacy, the Board has
2 taken no responsive action. Finally, Carson L. and his peers formed a civic engagement group to share
3 ideas suppressed by the Board. Because few teachers have been willing to talk with students about the
4 Board’s actions, the group allows students to engage in independent study and conversation on topics the
5 Board has censored.

6 88. **Plaintiff David P.** is an eight-year-old third grader at a TVUSD elementary school. His
7 favorite subjects are history and math. David P. loves planes and flying and hopes to one day become a
8 pilot or aviation engineer. David P.’s mother, **Plaintiff Rachel P.**, moved with him to Temecula for its
9 diverse community and excellent schools. She chose to live in an area that would allow David P. to
10 attend one of the District’s most diverse schools. Rachel P. is concerned about the Resolution’s harmful
11 impact on David P.’s current and future experiences in TVUSD.

12 89. California expects third graders to learn about the foundational principles of American
13 democracy and the importance of informed civic engagement.⁹⁴ Rachel P. is concerned that David P.’s
14 teacher will be chilled from introducing concepts such as the freedom to express one’s own opinions, the
15 freedom to learn about different viewpoints, and the need to separate church and state. She is therefore
16 considering moving out of the District so that David P. will be able to receive an elementary school
17 education equivalent to that of his peers elsewhere in the State.

18 90. Rachel P. is an active member of David P.’s school community and regularly attends
19 Board meetings. She has heard teachers express the anxiety and uncertainty they are suffering as a result
20 of the Board’s actions. Many are worried about being labeled “activist teachers” and denied due process.
21 Rachel P. believes that the Resolution and the message it sends will discourage qualified teachers from
22 applying to or remaining in positions in the District.

23 91. David P. has Sephardic Jewish roots, and Rachel P. is concerned that the Resolution will
24 result in unrealistic depictions of important events in David P.’s history, like the Holocaust. She is
25 troubled that David P.—who will be attending Temecula schools for the next decade—is being, and will
26 continue to be, deprived of a full and accurate educational foundation in history, the social sciences, and
27

28 ⁹⁴ HSS Framework at 60–63.

1 English/Language Arts, among other subjects.

2 92. **Plaintiff Violet B.** is an eight-year-old Hispanic student at a TVUSD elementary school.
3 Her favorite subjects are reading and science, and she loves to sing in her school's chorus and act in
4 Drama class. Violet B.'s mother, **Plaintiff Inez B.**, and father moved to Temecula for the educational
5 opportunities in its schools. Violet B.'s parents value the diversity of her elementary school, which has
6 enabled Violet B. to learn about multiple points of view, develop empathy, and prepare for life in today's
7 multicultural society.

8 93. California expects third graders to learn about the history and contributions of local
9 Native American groups as well as later arrivals to the region. Violet B. is of Mexican descent, and it is
10 important to her parents that she learn about her family's culture and how it enriches Temecula's
11 community. Violet B.'s parents worry that her teacher will be prevented from discussing students'
12 cultural heritage by the Resolution's ban on teaching that "[a]n individual is . . . superior to another
13 individual because of race."⁹⁵ Violet B.'s parents also fear that she will not learn about how historical
14 figures such as Frederick Douglass and Harriet Tubman fought for a more racially just society,⁹⁶ because
15 such topics may make white students uncomfortable.

16 94. Beyond the classroom, the Board has created a climate of hostility that has diminished
17 Violet B.'s sense of security in her school and community. Violet B.'s parents worry about the lasting
18 harms the Resolution will have on her learning and wellbeing.

19 95. Inez B. is active in Violet B.'s school community. She knows teachers who are leaving the
20 District or retiring early due to the Board's actions. One teacher explained to Inez B. that she has been
21 pausing before answering student questions that touch on race or the present impact of historical events.
22 Although this teacher believes that systemic racism exists, she will not mention it for fear of being
23 misquoted.

24 96. Inez B. has dedicated six years to the TVUSD community, serving on committees, taking
25 on leadership roles at the school and District levels, and working to ensure that the District provides
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27 ⁹⁵ Resol. 21, *supra* note 1.

28 ⁹⁶ HSS Framework at 64.

1 high-quality and equitable education to its students. She is saddened and angered by the Board’s undoing
2 of that work, particularly without engaging with her and other parents who have devoted their time,
3 energy, and talents to serving the District.

4 97. **Plaintiff Stella B.**, the older sister of Plaintiff Violet B., is a 12-year-old Hispanic student
5 and seventh grader at a TVUSD middle school. Stella B. aspires to attend the University of Southern
6 California and become a lawyer or teacher.

7 98. Stella B.’s class recently read *Roll of Thunder, Hear My Cry*. For Stella B., the book provided
8 a window into Black experiences and helped her understand how the legacies of slavery and Jim Crow
9 continue to affect Black communities. Stella B. knows that other sixth graders in TVUSD did not read
10 *Roll of Thunder, Hear My Cry* this year because their instructors were afraid of being punished for teaching
11 it. She worries that her sister and other younger students in TVUSD will not have the opportunity to
12 learn from the book if even more teachers stop assigning it.

13 99. In seventh grade, California students begin studying world history. The State’s history-
14 social science framework contrasts its current global emphasis with approaches “that put Western
15 Europe at the center of world events.”⁹⁷ Students learn to examine the causes and effects of cross-
16 cultural interactions, including the racialized justifications for the Atlantic slave trade, the decimation of
17 Native American populations by newly introduced diseases, and the “unequal and exploitative” nature of
18 colonialism.⁹⁸ Stella B.’s parents are concerned that her teachers will avoid fully engaging with these
19 subjects given the Resolution’s ban on teaching that “[i]ndividuals are either a member of the oppressor
20 class or the oppressed class because of race or sex.”⁹⁹

21 100. Even with two young children, Inez B. and her husband have taken the time to regularly
22 attend Board meetings since 2018. They were among the parents who opposed the Resolution at the
23 December 13 meeting. Inez B. worries that the Board’s actions are depriving Stella B. of a culturally
24 responsive education, which she knows is essential to providing students of color like her daughters with
25 opportunities to learn that are equal to those of their white peers.

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27 ⁹⁷ *Id.* at 181.

28 ⁹⁸ *Id.* at 225–26, 229.

⁹⁹ Resol. 21, *supra* note 1.

1 **DEFENDANTS**

2 101. **Defendants Joseph Komrosky, Jennifer Wiersma, Danny Gonzalez, Allison**
3 **Barclay, and Steven Schwartz** (“Defendant Trustees”), sued in their official capacities, are the five
4 members of **Defendant TVUSD Board of Trustees**. Defendant Board is the governing body of
5 TVUSD.¹⁰⁰ Defendant Trustees and Defendant Board are responsible for setting rules governing
6 TVUSD public schools that are “not inconsistent with law or with the rules prescribed by the State
7 Board of Education.”¹⁰¹

8 102. **Defendant TVUSD** is the local education agency governed by Defendant Board.¹⁰² It is
9 responsible for implementing educational programs and activities at the public schools within its
10 boundaries. Defendant TVUSD presently operates 32 schools, including 17 elementary schools, six
11 middle schools, and three comprehensive high schools. It is headquartered at 31350 Rancho Vista Road,
12 Temecula, California, 92592.

13 103. **Defendants Does 1 through 20 inclusive** are defendants sued under fictitious names
14 pursuant to California Code of Civil Procedure section 474, who are responsible for the violations
15 described in this Complaint, but whose identities Plaintiffs presently do not know. Upon information
16 and belief, Plaintiffs allege that each of the fictitiously named Defendants was in some manner
17 responsible for, participated in, or contributed to the matters and things of which Plaintiffs complain
18 herein, and in some fashion, has legal responsibility therefor. When the exact nature and identity of the
19 fictitious Defendants who are responsible for participating and contributing to the matters and things
20 herein alleged are ascertained by Plaintiffs, Plaintiffs will amend this pleading to set forth the same.

21 **HOW RESOLUTION 21 VIOLATES CALIFORNIA’S CONSTITUTION**
22 **AND STATUTES**

23 **I. The Resolution Impedes the Free Exchange of Ideas in Public School Classrooms.**

24 104. In *Brown v. Board of Education*, the United States Supreme Court emphasized that the
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26 ¹⁰⁰ See Cal. Educ. Code § 35010(a).

27 ¹⁰¹ *Id.* § 35291.

28 ¹⁰² *Supra* note 100.

1 provision of public “education is perhaps the most important function of state and local
2 governments.”¹⁰³ California’s high court has described education as “the lifeline of both the individual
3 and society” because of “its essential role in opening up to the individual the central experiences of our
4 culture”¹⁰⁴—economic, social, and political.¹⁰⁵ “[A]s the problems of our diverse society become
5 increasingly complex,” “[t]he need for an educated populace” capable of sifting through misinformation
6 and drawing reasoned conclusions rises proportionately.¹⁰⁶ In light of the pivotal function of education in
7 maintaining a healthy democracy, the California Supreme Court has repeatedly held it to be a
8 fundamental right, the infringement of which is subject to strict scrutiny.¹⁰⁷

9 105. Classrooms that foster the robust exchange of ideas encourage students to consider and
10 engage with viewpoints different from their own. Students prepare for a lifetime of democratic
11 participation by learning to assess competing arguments, critically evaluate sources of information, and
12 reason analytically. As the California Supreme Court has explained, education not only “stimulates an
13 interest in the political process,” but also “provides the intellectual and practical tools necessary for
14 political action.”¹⁰⁸ The fundamental right to education thus requires both exposure to a broad range of
15 ideas *and* a classroom environment that fires student curiosity and promotes vigorous discussion. In
16 addition to teaching “intellectual skills,” educators need the freedom to provide students with “the
17 practical training and experience—from communicative skills to experience in group activities—
18 necessary for full participation in the ‘uninhibited, robust, and wide-open’ debate that is central to our
19 democracy.”¹⁰⁹

20
21 ¹⁰³ *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954); *accord Serrano*, 5 Cal. 3d at 606.

22 ¹⁰⁴ *Serrano*, 5 Cal. 3d at 605.

23 ¹⁰⁵ *Hartzell*, 35 Cal. 3d at 907.

24 ¹⁰⁶ *Serrano*, 5 Cal. 3d at 608.

25 ¹⁰⁷ *E.g., Butt*, 4 Cal. 4th at 683 (“[E]ducation is a fundamental interest under the California equal
26 protection guaranties and . . . the unique importance of public education in California’s constitutional
scheme requires careful scrutiny of state interference with basic educational rights.”); *Serrano*, 5 Cal. 3d at
597, 608–09 (Education’s “distinctive and priceless function . . . in our society warrants, indeed
compels,” its treatment as a “fundamental interest” and the application of strict scrutiny.).

27 ¹⁰⁸ *Hartzell*, 35 Cal. 3d at 907–08.

28 ¹⁰⁹ *Id.* at 908 (quoting *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964)).

1 106. These principles inform the California History-Social Science Framework (“HSS
2 Framework”) and the California History-Social Science Content Standards (“HSS Standards”),¹¹⁰ which
3 reflect the overwhelming consensus of State educators and the public around the academic foundation
4 necessary for meaningful civic participation.¹¹¹ Recognizing the vital importance of a “knowledgeable and
5 engaged citizenry” to the health of our system of government, the HSS curriculum sets out the content
6 and skills that are essential to preparing California students “for college, careers, and civic life.”¹¹² Central
7 to this preparation is collaborative inquiry, through which students learn to frame “questions of
8 significance,” analyze “relevant evidence” gathered from “a wide variety of perspectives,” and draw their
9 own conclusions.¹¹³ Educators foster these skills through civic learning activities such as “debate,
10 structured discussion, and deliberation concerning public issues.”¹¹⁴ Teachers lead conversations marked
11 by “rigor,” “risk,” and the “open-minded consideration of all viewpoints,” creating learning
12 environments in which students can “ask important questions that do not have obvious or easy
13 answers.”¹¹⁵ Students have the freedom to “alter [their] initial ideas” as they weigh competing
14 perspectives and synthesize new information.¹¹⁶

15 107. As described *supra* para. 12 and *infra* paras. 108–109, the Resolution impedes this inquiry
16 by suppressing ideas with which certain Board members disagree. It prescribes the one-sided treatment
17 of issues, such as structural inequality, that are among the most consequential in our national dialogue.
18 And it denies Temecula’s students the foundational skills and knowledge necessary for “active and
19 effective participation in the pluralistic, often contentious society in which they will soon be adult
20 members.”¹¹⁷

22
23 ¹¹⁰ HSS Framework, *supra* note 25; HSS Standards, *supra* note 26.

24 ¹¹¹ HSS Framework at 15–16.

25 ¹¹² *Id.* at 16, 482.

26 ¹¹³ *Id.* at 15–16.

27 ¹¹⁴ *Id.* at 778.

28 ¹¹⁵ *Id.* at 590.

¹¹⁶ *Id.*

¹¹⁷ *Hartzell*, 35 Cal. 3d at 907 n.9 (quoting *Pico*, 457 U.S. at 868).

1 **II. The Resolution Discriminates on the Basis of Viewpoint.**

2 108. The Resolution unlawfully restricts instruction on viewpoints disfavored by the Board's
3 new members, including the existence of racism and sex discrimination in the United States. As explained
4 *supra*, notwithstanding its framing of the Resolution as a ban on "Critical Race Theory," the Board has
5 used the term to censor concepts as varied as race and systemic racism; sex and sex discrimination;
6 gender identity; sexual orientation; diversity, equity, and inclusion; implicit bias; culturally responsive
7 education; and social emotional learning. To the extent these topics can even be discussed, the
8 Resolution requires teachers to "focus[] on [their] flaws," facially discriminating on the basis of
9 viewpoint.

10 109. The Resolution's viewpoint discrimination is also readily apparent in comparing its text to
11 that of a resolution from Placentia-Yorba Linda on which it was partially modeled:

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1 **Figure 2: Excerpts from redline comparison of**
2 **Placentia-Yorba Linda Resolution and Resolution 21**

3 WHEREAS, All ~~S~~students deserve a high-quality education and experiences in the ~~Placentia-Yorba~~
4 ~~Linda-Temecula Valley~~ Unified School District (“TVUSD” or the “District”); and

5 ~~WHEREAS, Nothing in this resolution shall be construed to restrict academic freedom or student~~
6 ~~speech; and~~

7 WHEREAS, Nothing in this resolution shall require any staff member to violate local, state, or
8 federal law ~~as well as California Education Code~~; and

9 ~~WHEREAS, This resolution has to do with how topics of race will be taught in this district, not~~
10 ~~what topics will be taught; and~~

11 ~~WHEREAS, This resolution will not alter the existing content currently taught in all certified AP~~
12 ~~and IB courses so as not to jeopardize the integrity of the coursework and risk losing certification;~~
13 ~~and~~

14 WHEREAS, The ~~Placentia-Yorba Linda Unified School District~~TVUSD Board of Education
15 affirms its ~~commitment and expectation~~requirement that teachers will rely on the Board of
16 Education adopted curriculum as the authoritative source for the contexat of instruction ~~to provide~~
17 ~~a comprehensive education~~; and

18 WHEREAS, The ~~Placentia-Yorba Linda Unified School District~~TVUSD values all students ~~and~~
19 ~~promotes equity and equality~~, respects diversity, celebrates the contributions of all, and encourages
20 culturally relevant and inclusive teaching practices. The ~~Placentia-Yorba Linda Unified School~~
21 ~~District~~TVUSD further believes that the diversity that exists among the District’s community of
22 students, staff, parents, guardians, and community members is an asset to be honored and valued;
23 and

24 ...
25 As shown above, the Board struck the Placentia-Yorba Linda Resolution’s affirmation that nothing
26 therein “shall be construed to restrict academic or free speech.”¹¹⁸ It removed assurances that the
27 Resolution would not impact course content, including “what topics will be taught” or “the existing
28 content currently taught in all certified AP and IB courses”—language intended to protect “the integrity
of,” and thus the college credits secured by, such coursework.¹¹⁹ Strikingly—and contrary to its own
policy underscoring “that educational excellence requires a commitment to equity”¹²⁰—the Board also

26 ¹¹⁸ *Id.*

27 ¹¹⁹ *Id.*

28 ¹²⁰ TVUSD, *Policy 0415: Equity*, <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=>

1 chose to delete the statement that the District “promotes equity and equality.”

2 **III. The Resolution is Unconstitutionally Vague.**

3 110. There are two independent grounds for finding a law to be impermissibly vague. The first
4 is where the law fails to give a “person of ordinary intelligence . . . a reasonable opportunity to know
5 what is prohibited.”¹²¹ The second is where it “creat[es] a danger of arbitrary and discriminatory”
6 enforcement.¹²² The Resolution does both.

7 111. First, the Resolution nowhere defines or provides examples of the “other similar
8 frameworks” it prohibits, leaving Temecula’s teachers to guess at what State- and District-mandated
9 methods of inquiry may be prohibited. Culturally responsive instruction, for example, is widely accepted
10 among educational researchers as a prerequisite to ensuring that students from all backgrounds have the
11 opportunity to learn.¹²³ It is uniformly required under California’s subject matter and teacher
12 performance standards.¹²⁴ In Temecula, the Board is required to promote “equity in district programs

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[36030186&revid=51nz4WcLPVhwfcuKtdhIZw==&ptid=amIgT'ZiB9plushNj16WXhfiOQ==&secid=
&PG=6&IRP=0&isPndg=false.](https://www.cde.ca.gov/ci/rl/cf/documents/elaeldfwchapter9.pdf)

15 ¹²¹ *Snatchko v. Westfield LLC*, 187 Cal. App. 4th 469, 495 (2010).

16 ¹²² *Id.*; *Kolender v. Lamson*, 461 U.S. 352, 358 (1983) (highlighting “concern . . . based upon the ‘potential
17 for arbitrarily suppressing First Amendment liberties” (quoting *Shuttlesworth v. City of Birmingham*, 382 U.S.
87, 91 (1965)).

18 ¹²³ *Infra* paras. 123–125.

19 ¹²⁴ *E.g.*, HSS Framework at 510–11 (“To ensure that all students thrive in history–social science
20 classrooms, teachers should . . . learn about their students’ lives and make connections between students’
21 experiences, backgrounds, and interests and the content learning in school.”); Cal. Dep’t Educ., *English
22 Language Arts/English Language Development Framework* 918 (2014), [https://
www.cde.ca.gov/ci/rl/cf/documents/elaeldfwchapter9.pdf](https://www.cde.ca.gov/ci/rl/cf/documents/elaeldfwchapter9.pdf) (same); Cal. Dep’t Educ., *California Arts
23 Education Framework* 94 (2020), <https://www.cde.ca.gov/ci/cr/cf/documents/caartsedfw.pdf> (“The
24 development of knowledge and skills in the arts must be connected with students’ cultural identities.”);
25 Cal. Dep’t Educ., *Mathematics Framework* 673 (2013), [https://www.cde.ca.gov/ci/ma/
cf/documents/mathfwuniversalaccess.pdf](https://www.cde.ca.gov/ci/ma/cf/documents/mathfwuniversalaccess.pdf) (educators are to provide “culturally and linguistically relevant
26 instruction); Cal. Dep’t Educ., *Health Education Framework* 565 (2019), [https://
www.cde.ca.gov/ci/he/cf/documents/healthedframework2019.pdf](https://www.cde.ca.gov/ci/he/cf/documents/healthedframework2019.pdf) (educators are to “deliberately
27 include culturally relevant topics and texts”); Cal. Dep’t Educ., *2016 Science Framework* 1404 (2016),
28 <https://www.cde.ca.gov/ci/sc/cf/documents/scifwchapter10.pdf> (educators are to “[r]ecognize and
leverage [students’] cultural and experiential backgrounds”); Cal. Dep’t Educ., *World Language Framework*
646 (2020), <https://www.cde.ca.gov/ci/fl/cf/documents/wlframework.pdf> (educators are to “use the
strategies and learning approaches of their students’ cultural traditions to scaffold and facilitate
learning”).

1 and activities, through measures such as . . . professional development on culturally responsive
2 instructional practices.”¹²⁵

3 112. Central to culturally responsive instruction is the fostering of students’ critical
4 consciousness, *i.e.*, their “ability to recognize and critique societal inequities” as they manifest in real-
5 world situations.¹²⁶ California’s teaching standards mandate that educators “connect subject matter to
6 meaningful, real-life contexts” and “encourage students to ask critical questions and consider diverse
7 perspectives about subject matter.”¹²⁷ For example, a U.S. Government teacher might explore how
8 voting restrictions impact electoral participation among communities of color, and ask students to
9 interrogate the reasons why such laws are passed.¹²⁸ A U.S. History teacher whose students are learning
10 about the Equal Rights Amendment might ask students to compare the societal context of the 1970s
11 with current conditions that have driven a renewed push toward ratification.¹²⁹

12 113. Culturally responsive instruction helps students to (i) recognize that power is, and has
13 historically been, unequally distributed throughout society and (ii) analyze why such imbalances exist. A
14 teacher could therefore interpret the Resolution as prohibiting culturally responsive teaching, even
15 though such instruction is expressly called for by both State and District regulations. Temecula teachers
16 understandably feel compelled to avoid such approaches lest they be deemed to violate the Resolution.

17 114. Teachers attempting to square the ban with California- and District-mandated curriculum
18 standards face a similar quandary. As the California Department of Education recently emphasized, State
19 law requires local educational agencies to ensure that all students have access to “materials that are
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22 ¹²⁵ TVUSD, *supra* note 120.

23 ¹²⁶ Cal. Dep’t of Educ., *Culturally Relevant Pedagogy* (2023), <https://www.cde.ca.gov/pd/ee/culturalrelevantpedagogy.asp>.

24 ¹²⁷ Cal. Comm’n Teacher Credentialing, *California Standards for the Teaching Profession* 4–6 (2009),
25 <https://www.ctc.ca.gov/docs/default-source/educator-prep/standards/cstp-2009.pdf>.

26 ¹²⁸ *See* HSS Framework at 275 (instructing teachers to “weave in the recurrent themes of citizenship and
27 voting by emphasizing how these rights and privileges have been contested and reshaped over time”).

28 ¹²⁹ *See id.* at 421 (“Students can debate the Equal Rights Amendment and discuss why it failed to get
ratified.”).

1 aligned with [State] standards and frameworks.”¹³⁰ The Board’s own, still binding policies likewise
2 mandate—at minimum—alignment with State curriculum standards,¹³¹ many of which call for the
3 discussion of concepts banned under the Resolution. Teachers are left to decipher the boundaries (if any)
4 between the Resolution’s sweeping and largely undefined proscriptions and State and District
5 requirements.

6 115. Among the most glaring manifestations of this fundamental incompatibility is the State’s
7 requirement that every local education agency with students in grades 9–12 “offer at least a one-semester
8 course in ethnic studies” beginning in 2025.¹³² For students who start high school the following fall, the
9 course will be a prerequisite for graduation.¹³³ As the HSS curriculum explains, “central to any ethnic
10 studies course is the historic struggle of communities of color, taking into account the intersectionality of
11 identity (gender, class, sexuality, among others), to challenge racism, discrimination, and oppression and
12 interrogate the systems that continue to perpetuate inequality.”¹³⁴ Critical analysis of the use and
13 distribution of power is also integral to the discipline, and provides the impetus for student-led inquiry
14 and civic engagement.¹³⁵ The Resolution’s ban on the teaching of critical race theory and “other similar
15 frameworks” is antithetical to these foundational principles, which California mandates in any course
16 seeking to satisfy the ethnic studies requirement.¹³⁶ A teacher cannot comply with California law and the
17 Resolution at the same time.¹³⁷

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19 ¹³⁰ Cal. Dep’t of Educ., *Guidance on Removal of Instruction or Instructional Materials* (2023),
<https://www.cde.ca.gov/ci/cr/cf/removalinstruandim.asp>.

20 ¹³¹ E.g., TVUSD, *Policy 6142.94: History-Social Science Instruction*,
21 <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=gBTRqr7v1OLFvUnp>
22 [nRPLzw==&ptid=amIgTZiB9plushNjl6WXhfiOQ==&secid=ruE8yj8gaZHBkLjNHWmKZw==&PG](https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=gBTRqr7v1OLFvUnp)
23 [=6&IRP=0&isPndg=false](https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=gBTRqr7v1OLFvUnp) (“The Board shall adopt academic standards for history-social science **which**
meet or exceed state content standards” (emphasis added)).

24 ¹³² Cal. Educ. Code § 51225.31)(G)(i).

25 ¹³³ *See id.*

26 ¹³⁴ HSS Framework at 311.

27 ¹³⁵ Cal. Dep’t of Educ., *Ethnic Studies Model Curriculum 9–10* (2021), <https://www.cde.ca.gov/ci/cr/cf/documents/ethnicstudiescurriculum.pdf>.

28 ¹³⁶ Cal. Educ. Code § 51225.3(1)(G)(iii).

¹³⁷ Unsurprisingly, therefore, the Board has failed to initiate the process to adopt an ethnic studies

1 116. The same is true for core disciplinary subjects. For example, in history and the social
2 sciences:

- 3 ○ California requires eighth graders to “[e]valuate the major debates that occurred during
4 the development of the Constitution and their ultimate resolutions in such areas as . . .
5 slavery.”¹³⁸ Students consider compromises made during the Constitutional Convention
6 to “preserve[] the institution of slavery: namely, the three-fifths rule of representation,
7 the slave importation clause, and the fugitive-slave clause.”¹³⁹ They may “wrestle with a
8 question faced by some Founding Fathers: How could the nation’s ideals of freedom,
9 liberty, and democracy be adopted alongside slavery?”¹⁴⁰

10 Can a U.S. History teacher ask students to assess “the long-term costs of slavery, both to
11 people of African descent and to the nation at large”?¹⁴¹ Or would that violate the
12 Resolution’s ban on teaching that individuals are members of an “oppressed class because
13 of race”?¹⁴²

- 14 ○ Can a U.S. History teacher discuss women’s historical and contemporary struggles for
15 wage equality,¹⁴³ or would this constitute teaching that individuals are members of an
16 “oppressed class because of . . . sex”?¹⁴⁴

- 17 ○ California expects 12th graders to be able to “[e]xplain the controversies that have
18 resulted over changing interpretations of civil rights, including those in . . . *Regents of the*
19 *University of California v. Bakke*.”¹⁴⁵ Can a U.S. History or Government teacher invite
20 students to debate the outcome of *Students for Fair Admissions v. Harvard*? The pros and
21 cons of affirmative action more generally? Or would this violate the Resolution’s ban on
22 teaching that “an individual should receive favorable treatment due to the individual’s race
23 or sex” or that “[m]eritocracy” is racially discriminatory?¹⁴⁶

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25 curriculum—which, according to its own regulations, needed to begin this academic year in order to
26 offer the course by the statutory deadline. TVUSD, *Regulation 6141: Curriculum Development And Evaluation*,
27 <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=uirBbJKwOTzfVKXCujIppqg==&ptid=amIgtZiB9plushNjl6WXhfiOQ==&secid=ruE8yj8gaZHBkLjNHWmKZw==&PG=6&IRP=0&isPndg=false>.

28 ¹³⁸ HSS Standards at 34.

¹³⁹ HSS Framework at 242.

¹⁴⁰ *Id.* at 242–43.

¹⁴¹ *Id.* at 243.

¹⁴² Resol. 21, *supra* note 1.

¹⁴³ *E.g.*, HSS Framework at 388 (describing how “labor and social justice movements” advocated for “wage equality” and “more social freedom for women”).

¹⁴⁴ Resol. 21, *supra* note 1.

¹⁴⁵ HSS Standards at 56.

¹⁴⁶ Resol. 21, *supra* note 1.

1 117. These concerns extend beyond history and the social sciences. The Resolution’s
2 prohibitions also imperil the teaching and learning of multiple State standards in English/Language Arts.
3 For example, can a high school teacher assign Martin Luther King’s *Letter from the Birmingham Jail*,¹⁴⁷
4 which includes the following passages:

5 We know through painful experience that freedom is never voluntarily given by the
6 oppressor; it must be demanded by the oppressed. [. . .]

7 I guess it is easy for those who have never felt the stinging darts of segregation to say
8 wait. But . . . when you take a cross country drive and find it necessary to sleep night after
9 night in the uncomfortable corners of your automobile because no motel will accept you;
10 when you are humiliated day in and day out by nagging signs reading “white” men and
11 “colored”[;] when . . . your middle name becomes “boy” (however old you are) . . . then
12 you will understand why we find it difficult to wait. [. . .]

[F]ew members of the oppressor race can understand the deep groans . . . of the
oppressed race, and still fewer have the vision to see that injustice must be rooted out by
strong, persistent and determined action.

13 Would asking students to analyze King’s letter violate the Resolution’s ban on teaching that “[i]ndividuals
14 are either a member of the oppressor class or the oppressed class because of race”?¹⁴⁸ That “[a]n
15 individual, by virtue of his or her race . . . , bears responsibility for actions committed in the past or
16 present by other members of the same race”?¹⁴⁹ That “[a]n individual should feel discomfort, guilt,
17 anguish or any other form of psychological distress on account of his or her race”?¹⁵⁰

18 118. Similar challenges arise in nearly every discipline. In the arts, California expects fifth
19 graders to be able to “[i]dentify how art is used to inform or change beliefs, values, or behaviors of an
20 individual or society.”¹⁵¹ Can a teacher ask students to consider the message of “The Problem We All

22 ¹⁴⁷ Martin Luther King, Jr., *Letter from the Birmingham Jail* (1963); Cal. Dep’t of Educ., *California Common*
23 *Core State Standards English Language Arts & Literacy in History/ Social Studies, Science, and Technical Subjects*
24 [hereinafter CCSS ELA/Literacy] 54, 78 (2013), [https://www.cde.ca.gov/be/](https://www.cde.ca.gov/be/st/ss/documents/finalesccsstandards.pdf)
25 [st/ss/documents/finalesccsstandards.pdf](https://www.cde.ca.gov/be/st/ss/documents/finalesccsstandards.pdf); see also HSS Standards at 54 (11th graders are required to
26 “[e]xamine the roles of civil rights advocates . . . , including the significance of Martin Luther King, Jr.’s
27 ‘Letter from Birmingham Jail.’”).

28 ¹⁴⁸ Resol. 21, *supra* note 1.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ Cal. Dep’t of Educ., *California Arts Standards* 221 (2019), <https://www.cde.ca.gov/be/st/ss/>

1 Live With,” a Normal Rockwell painting of Ruby Bridges, the first Black child to attend an all-white
2 elementary school in New Orleans? Or would this violate the Resolution’s ban on teaching that “[a]n
3 individual should feel discomfort, guilt, anguish or any other form of psychological distress on account
4 of his or her race”?¹⁵² And in computer science, California requires students in grades 6–8 to be able to
5 “[d]iscuss issues of bias and accessibility in the design of existing technologies,” such as “the impacts of
6 facial recognition software that works better for lighter skin tones” because “it was likely developed with
7 a homogeneous testing group.”¹⁵³ If a teacher asked students to consider how seemingly neutral design
8 practices can reflect and result in racial inequity, would this violate the Resolution’s ban on teaching that
9 “[r]acism is ordinary, the usual way society does business”?¹⁵⁴

10 **IV. The Resolution Discriminates on the Basis of Race, Sexual Orientation, Gender Identity,**
11 **and Sex.**

12 119. The Board enacted the Resolution with the discriminatory intent to censor and chill
13 inclusive teaching methods and concepts that benefit all students, but particularly students of color and
14 LGBTQ students. The Resolution’s disparate harms, historical background, preceding events, procedural
15 and substantive irregularities, and legislative history all demonstrate the Board’s purpose to discriminate
16 against students and teachers on the basis of race and LGBTQ status.

17 120. The Board’s reliance on the Resolution to censor information about the LGBTQ rights
18 movement and activists further underscores its animus. Objecting to the appearance of Harvey Milk in
19 curricular materials, Defendant Gonzalez cited—and Komrosky emphasized—a toxic, unfounded, and
20 decades-old stereotype linking LGBTQ people to pedophilia.¹⁵⁵ Wiersma claimed, also without basis, that

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22 documents/caartsstandards.pdf.

23 ¹⁵² Resol. 21, *supra* note 1.

24 ¹⁵³ Cal. Dep’t of Educ., *California Computer Science Standards* 93 (2018), <https://www.cde.ca.gov/be/st/ss/documents/csstandards.pdf>.

25 ¹⁵⁴ Resol. 21, *supra* note 1.

26 ¹⁵⁵ May 16 Board Meeting at 1:53:01, https://youtu.be/ABcKfZu7_pU?t=6781; Melissa Block,
27 *Accusations of “Grooming” are the Latest Political Attack—with Homophobic Origins*, Nat’l Pub. Radio (May 11,
28 2022), <https://www.npr.org/2022/05/11/1096623939/accusations-grooming-political-attack-homophobic-origins> (false “grooming” smear often expands to include accusations of pedophilia and sex trafficking”); Carole Jenny et al., *Are Children at Risk for Sexual Abuse by Homosexuals?*, 94 *Am. Acad. Pediatrics* 41, 41 (1994) (in study of 269 children sexually abused by adults, perpetrator was a gay or

1 the California statute requiring teaching about diverse groups’ societal contributions did not apply to
2 students in kindergarten through fifth grade.¹⁵⁶

3 121. By restricting instruction about discrimination against women and women’s struggle for
4 equality, the Resolution has also had a disparate adverse impact on female students and teachers.

5 **A. The Resolution Causes Disparate Harm to Protected Classes.**

6 122. While culturally responsive and inclusive curriculum and teaching methods benefit all
7 students, they provide vital support to the educational experiences of students from marginalized
8 communities. By restricting such instruction, the Resolution inflicts disproportionate harm on TVUSD’s
9 students and teachers of color, female students and teachers, and LGBTQ students and teachers.

10 123. Research overwhelmingly supports the academic and personal benefits to students of
11 color, female students,¹⁵⁷ and LGBTQ students from curriculum that reflects their identities, experiences,
12 and histories. Researchers at UC Riverside, for example, found that Black high school students’ college
13 aspirations significantly increased after attending a college preparatory program that taught Black history
14 and fostered a peer environment of high expectations.¹⁵⁸ Similarly, a recent study demonstrated that
15 students taking ethnic studies courses in the San Francisco Unified School District had higher attendance
16 rates and grade point averages relative to their peers.¹⁵⁹ Research also links inclusive curricula with
17 increased standardized test scores.¹⁶⁰ Finally, inclusive curricula have been shown to improve academic

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20 lesbian adult in less than one percent of cases).

21 ¹⁵⁶ May 16 Board Meeting at 1:49:35, https://youtu.be/ABcKfZu7_pU?t=6575.

22 ¹⁵⁷ See, e.g., Corinne A. Moss-Racusin et al., *Boosting the Sustainable Representation of Women in STEM with Evidence-Based Policy Initiatives*, 8 Pol’y Insights from Behav. & Brain Scis. 50, 52 (2023) (collecting studies on importance of exposure to female role models for female STEM students).

23 ¹⁵⁸ Uma M. Jayakumar et al., *Pathways to College for Young Black Scholars: A Community Cultural Wealth Perspective*, 83 Harv. Educ. Rev. 551, 551–79 (2013), <https://doi.org/10.17763/haer.83.4.4k1mq00162433l28>.

24 ¹⁵⁹ Thomas Dee & Emily Penner, *The Causal Effects of Cultural Relevance: Evidence from an Ethnic Studies Curriculum*, 54 Am. Educ. Rsch. J. 127 (2017), <https://cepa.stanford.edu/content/causal-effects-cultural-relevance-evidence-ethnic-studies-curriculum>.

25 ¹⁶⁰ Philene Harte-Weiner, *Improving Student Academic Performance through Anti-Bias Education*, ProQuest (2013), <https://www.proquest.com/openview/be182f909a6df7da51f8fc56d25af92b/1.pdf?pq-origsite=gscholar&cbl=18750>.

1 persistence and satisfaction among students of color.¹⁶¹ This is particularly important in Temecula, where
2 many students experience racially disparate academic outcomes.¹⁶²

3 124. Students without access to inclusive curricula, by contrast, are more likely to be
4 disaffected with or alienated by their studies. For example, indigenous students report feeling silenced
5 and ignored when history curricula fail to include indigenous perspectives or accurate depictions of
6 historical events involving their communities.¹⁶³ Temecula’s indigenous students report receiving little to
7 no formal instruction on local indigenous peoples. School clubs provide the only space for District
8 students to engage in meaningful learning about the histories and cultures of the local Pechanga and Pala
9 tribes.

10 125. With respect to school climate, research has found inclusive curricula essential to
11 combatting harassment, discrimination, and bullying on the basis of race, gender, and sexual orientation.
12 LGBTQ-inclusive curricula has been linked to greater school safety, fewer absences, increased
13 connection and participation, and improved educational outcomes for LGBTQ students.¹⁶⁴ And civics
14 curricula that incorporate minority rights have led to “significantly higher levels of tolerance” amongst
15 students of all backgrounds.¹⁶⁵ The Resolution’s restrictions deprive students of color and LGBTQ
16 students of this security.

17 126. The Resolution also has a disparate adverse impact on teachers of color, who are already
18 underrepresented and subjected to discrimination in the teaching profession.¹⁶⁶ In a survey of the State’s
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20 ¹⁶¹ Eddie Comeaux & Uma M. Jayakumar, *Education in the United States: Is it a Black Problem?*, 39 Urb. Rev.
21 93, 101 (2007).

22 ¹⁶² See The Educational Opportunity Project at Stanford, <https://edopportunity.org/> (last visited June 4,
23 2023) (data accessible by download).

24 ¹⁶³ Kishan Lara-Cooper, *On Indian Ground: A Return to Indigenous Knowledge: Generating Hope, Leadership, and*
25 *Sovereignty through Education* 13–14 (Joely Proudfit & Nicole Quinderro Myers-Lim eds. 2017).

26 ¹⁶⁴ Joseph G. Kosciw, et al., *The 2019 National School Climate Survey: the Experiences of Lesbian, Gay, Bisexual,*
27 *Transgender, and Queer Youth in Our Nation’s Schools*, GLSEN (2020), [https://](https://www.glsen.org/sites/default/files/2021-04/NSCS19-FullReport-032421-Web_0.pdf)
28 www.glsen.org/sites/default/files/2021-04/NSCS19-FullReport-032421-Web_0.pdf.

¹⁶⁵ Patricia G. Avery, *Teaching tolerance: What research tells us*, 66 Soc. Educ. 270–75 (2002).

¹⁶⁶ E.g., Cal. Dep’t of Educ., *Fingertip Facts on Education in California* (Mar. 15, 2023), [https://](https://www.cde.ca.gov/ds/ad/ceffingertipfacts.asp)
www.cde.ca.gov/ds/ad/ceffingertipfacts.asp (as of 2018–2019—the school year for which the most
recent data is available—38.8 percent of California’s public school teachers were people of color, as

1 TK–12 teachers, 62 percent of Black teachers and 54 percent of Asian American/Pacific Islander
2 teachers reported having experienced racial discrimination in their jobs.¹⁶⁷ These teachers may develop
3 “racial battle fatigue” (the psychological, emotional, and physiological toll of confronting racism in the
4 school environment) that drives them out of the classroom.¹⁶⁸

5 127. Teachers also confront ideological recrimination. For example, those who introduce basic
6 concepts of gender or sexual orientation—as mandated by the State—are increasingly being accused of
7 “grooming” their students, particularly teachers who identify as LGBTQ.

8 128. These harms were foreseeable. During and since the December 13 Board meeting,
9 students, teachers, and community members have highlighted the Resolution’s disproportionate injuries
10 to individuals who identify as LGBTQ and/or of color. These students and teachers are also bearing the
11 burden of challenging the Resolution. They have had to divert their time and attention from their studies
12 and jobs to organize protests, attend and provide public comment at Board meetings, and educate
13 themselves and the community about their histories and identities. As a result, supporters of the
14 Resolution have threatened them and their families, publicized their names and pictures online, and
15 created a website and social media accounts to disparage and harass them.¹⁶⁹

16 **B. Historical Background of the Resolution**

17 129. The Resolution follows a history of educational segregation in Temecula and the Inland
18 Empire. Following California’s statehood, Riverside County’s first superintendent entrenched segregation
19 in the region’s education system by restricting the transfer of students of color into better-funded schools
20 in white communities. Roughly contemporaneously, the County denied children of immigrant farm and
21 rail laborers entry into the local schools altogether.

23 compared to 79.9 percent of public school students in 2022–2023); Diana D’amico et al., *Where Are All*
24 *the Black Teachers? Discrimination in the Teacher Labor Market*, 87 Harv. Educ. Rev. 26, 38–39 (2017).

25 ¹⁶⁷ Hart Rsch. Assocs., *supra* note 31.

26 ¹⁶⁸ Marcos Pizarro & Rita Kohli, “*I Stopped Sleeping*”: *Teachers of Color and the Impact of Racial Battle Fatigue*, 55
27 Urb. Educ. 967, 969 (2020), <https://doi.org/10.1177/0042085918805788>. One California teacher
reported “hear[ing] an offensive comment, see[ing] teachers engage in an offensive activity, or just
feel[ing] alone” at least once a month. *Id.* at 980.

28 ¹⁶⁹ *Supra* paras. 61, 70.

1 **C. Sequence of Events Leading Up to the Resolution**

2 130. The specific sequence of events in the months leading up to the Board’s enactment of the
3 Resolution is detailed *supra* paras. 15–17.

4 131. More broadly, the Resolution is part of a spate of partisan and discriminatory legislation
5 that began in 2020 as a backlash to widespread protests for racial justice. The most influential of these,
6 former President Trump’s Executive Order 13950, banned a list of so-called “divisive concepts” from
7 federal contractors’ workplace trainings,¹⁷⁰ and soon became the template for state and local copycat
8 legislation,¹⁷¹ including Resolution 21. In short order, “critical race theory” became a catchall term for
9 any efforts to further race, sex, sexual orientation, or gender equity.¹⁷² As Christopher Rufo—the activist
10 who promoted the term in 2020¹⁷³— explained: “The goal is to have the public read something crazy in
11 the newspaper and immediately think ‘critical race theory.’ We have decodified the term and will recodify
12 it to annex the entire range of cultural constructions that are unpopular with Americans.”¹⁷⁴

13 **D. Procedural and Substantive Irregularities**

14 132. The Board’s introduction and enactment of the Resolution were highly irregular, both
15 procedurally and substantively.¹⁷⁵

17 ¹⁷⁰ Exec. Order 13950, 85 Fed. Reg. 60683 (issued Sept. 22, 2020; published Sept. 28, 2020). The Biden
18 Administration revoked Executive Order 13950 upon taking office. Exec. Order 13985, 86 Fed. Reg.
7009 (issued Jan. 20, 2021; published Jan. 25, 2021).

19 ¹⁷¹ Laura Meckler & Josh Dawsey, *Republicans, spurred by an unlikely figure, see political promise in targeting critical*
20 *race theory*, Wash. Post (June 21, 2021), <https://www.washingtonpost.com/education/2021/06/19/critical-race-theory-rufo-republicans>.

21 ¹⁷² See, e.g., King, *supra* note 23; Meckler & Dawsey, *supra* note 171.

22 ¹⁷³ Benjamin Wallace-Wells, *How a Conservative Activist Invented the Conflict Over Critical Race Theory*, New
23 Yorker (June 18, 2021), <https://www.newyorker.com/news/annals-of-inquiry/how-a-conservative-activist-invented-the-conflict-over-critical-race-theory>.

24 ¹⁷⁴ Christopher F. Rufo (@realchrisrufo), Twitter (Mar. 15, 2021, 3:17 PM), <https://twitter.com/realchrisrufo/status/1371541044592996352?lang=en>, archived at <https://perma.cc/6MM5-GVW7>.

25 ¹⁷⁵ Irregularities have persisted since the Resolution’s enactment. For example, in February 2023, the
26 Board received two Brown Act complaints about private meetings between individual Board members
and a lawyer the Board later hired as special counsel. Jeff Horseman, *Did Temecula school board break the law*
27 *in hiring a special attorney?*, Press-Enterprise (Feb. 8, 2023), <https://www.pressenterprise.com/2023/02/08/did-temecula-school-board-break-the-law-in-hiring-a-special-attorney/>.
28

1 133. In its haste to pass the Resolution at its first meeting, the Board ignored its own bylaws,
2 which govern the Board’s development and adoption of new policies. Pursuant to Bylaw 9310, after
3 “identify[ing] the need for a new policy,” the Board must “fully inform” itself about the particular
4 issue.¹⁷⁶ This may include:

- 5 ○ Collecting information such as “fiscal data, staff[,] and public input,” related TVUSD
6 policies, and California School Boards Association (“CSBA”) sample policies;
- 7 ○ Holding “discussions during a public Board meeting” about staff recommendations,
8 community expectations, and the policy’s expected impact “on student learning and well-
9 being, equity, governance, and the district’s fiscal resources and operational efficiency”;
10 and
- 11 ○ Requesting that legal counsel review the draft policy.¹⁷⁷

12 After these steps, the Superintendent or designee (not the Board) must “develop and present a draft
13 policy for a first reading at a public Board meeting. At its second reading, the Board may take action on
14 the proposed policy.”¹⁷⁸

15 134. There is no indication that prior to enacting the Resolution, the Board assessed fiscal
16 data; invited or reviewed input from District administrators, teachers, or staff; or examined related
17 TVUSD or CSBA policies. Nor did Board members, before drafting the Resolution, consult the
18 District’s legal counsel or discuss their underlying concerns at a public Board meeting—much less
19 consider the Resolution’s expected impact on student outcomes, course offerings (including A.P. classes),
20 and the District’s ability to operate effectively. The Board’s failure to examine, much less acknowledge,
21 these factors—which the Board “usually consider[s] important” and which “favor a decision contrary to
22 the one reached”—substantively departed from its normal decisionmaking.¹⁷⁹

23 135. The Resolution’s enactment deviated from Bylaw 9310 in other ways. For one, members

24 ¹⁷⁶ TVUSD, *Bylaw 9310: Board Policies*, [https://simbli.eboardsolutions.com/Policy/
ViewPolicy.aspx?S=36030186&revid=FjHHRvl59vykJIo68vdeWg==&ptid=amIgtZiB9plushNjI6WXhf
iOQ==&secid=qo79RxbUbdO3GjATNVIJ7Q==&PG=6&IRP=0&isPndg=false](https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=FjHHRvl59vykJIo68vdeWg==&ptid=amIgtZiB9plushNjI6WXhf
25 iOQ==&secid=qo79RxbUbdO3GjATNVIJ7Q==&PG=6&IRP=0&isPndg=false).

26 ¹⁷⁷ *Id.*

27 ¹⁷⁸ *Id.*

28 ¹⁷⁹ *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977).

1 of the Board, instead of the Superintendent, authored the Resolution. For another, the Board did not
2 hold a first reading of the proposed Resolution to solicit public input before scheduling a second reading
3 and vote. Instead, it rushed headlong to enact the Resolution in a single meeting and over vehement
4 community objection.¹⁸⁰

5 136. As a curricular change, the Resolution also deviated from the Board’s written and
6 customary policies. For example, curricular changes are typically proposed by TVUSD’s Director of
7 Curriculum, Instruction, and Assessment for the relevant grade level(s).¹⁸¹ In at least the 10 years
8 preceding the Resolution, no curricular changes were proposed by the Board itself.

9 137. Board Policy 6141 and its implementing regulation set out a specific process for revising
10 District curriculum, which requires the Board to ground its decisionmaking in the professional judgments
11 of District teachers and administrators. Moreover, Board policy expressly mandates that the District’s
12 curriculum align with “the District’s vision and goals for student learning,” which include increasing the
13 percentage of students meeting State performance standards,¹⁸² as well as with “Board policies, academic
14 content standards, state curriculum frameworks, state and district assessments, graduation requirements,
15 school and district improvement plans, and” related legal requirements where applicable.¹⁸³ The Board’s

17 ¹⁸⁰ Indeed, in his haste to laud his proposed Resolution, Defendant Komrosky failed to allow all other
18 Board members to comment before speaking, in violation of Board governance rules. TVUSD, *TVUSD*
19 *Governance Handbook 2021-2022* 7 (2021), <https://drive.google.com/file/d/15kxqGrwhqRzSNxPDMS7hWnjHQ48OXJ7-/view>, *archived at* <https://perma.cc/833Z-DAJJ>.

20 ¹⁸¹ As noted *supra*, there is no indication that Board members discussed the proposed Resolution with any
21 of the District administrators responsible for “the development, planning, implementation, and
22 evaluation” of the District’s instructional programs. TVUSD, *TVUSD Organization Chart 6.30* (June
23 2023), https://drive.google.com/file/d/1KNUWo9gOWiwVwAppF5a_rIkRywWWDJLd/view, *archived*
24 *at* <https://perma.cc/J77B-VVXW>.

25 ¹⁸² TVUSD, *Policy 0200: Goals For the School District*, <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=YviGHmz263hSEtMMsx0lew==&PG=6&st=aligned&mt=Exact>.

26 ¹⁸³ TVUSD, *Policy 6141: Curriculum Development And Evaluation*,
27 <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=gzplustvVLghI3WefrcJIKZCA==&PG=6&st=academic%20content%20standards&mt=Exact>. Alignment with State
28 standards is required throughout the Board’s policies, including Board Policy 6011, which provides:

District content standards for English language arts, English language development,
mathematics, science, health education, history-social science, physical education, visual

1 failure to consider the Resolution’s impact on curricular alignment with *any* of these factors is highly
2 aberrant.

3 **E. Legislative History of the Resolution**

4 138. As described *supra* paras. 132–137, the Resolution’s legislative history was characterized
5 by multiple procedural and substantive irregularities that are probative of discriminatory intent.

6 139. Comments made by Board members, Arend, and the Resolution’s supporters in the lead-
7 up to its enactment also evince animus toward people of color and LGBTQ people.

8 **(i) Racial animus**

9 Defendant Board members and their supporters have made multiple statements denying the
10 existence of racial inequality and espousing racially discriminatory stereotypes.

- 11 ○ In a campaign interview with Thompson, Defendant Wiersma stated:

12 [W]hat’s so interesting to me is that every skin color has both been a slave and owned a
13 slave. And so when you look at that, and where we are in the world today, trafficking,
14 slavery still exists. . . . They’re going to be held back only if we get mixed up in these
15 conversations where kids walk away feeling like they’re bitter and have a chip on their
16 shoulder.¹⁸⁴

- 15 ○ At the IEF PAC candidate draft, Defendant Gonzalez stated:

16 [F]ifteen days after the death of George Floyd—they . . . signed a resolution in Temecula
17 Valley reaffirming their commitment to promote equity. Right? And we know that equity
18 is this fluffy word that they use. And it essentially means that . . . we’re going to
19 disseminate [critical race theory] through every part of this education system.¹⁸⁵

- 19 ○ During the same campaign event, Defendant Komrosky criticized an “antiracist pledge”
20 sponsored by his instructors’ union at Mount San Antonio College. He repeated

21 and performing arts, world languages, career technical education, and transitional
22 kindergarten education **shall meet or exceed statewide model content standards**
23 adopted by the State Board of Education or the State Superintendent of Public Instruction
as applicable.

24 TVUSD, *Policy 6011: Academic Standards*, <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=XX1du1Q2p5slsh9L5JKr3Yk1g==&ptid=amIgTZiB9plushNjI6WXhfiOQ==&secid=ruE8yj8gaZHBkLjNHwMKZw==&PG=6&IRP=0&isPndg=false> (emphasis added).

25
26
27 ¹⁸⁴ Our Watch, *Jen Wiersma // TVUSD School Board Candidate // School Board Series*, YouTube (Sept. 20,
2022), <https://www.youtube.com/watch?v=AkewhkedCZM>.

28 ¹⁸⁵ IEF PAC Draft, *supra* note 35, at 0:32:42, <https://youtu.be/7wEBdcbRUng?t=1962>.

1 allegations that the pledge “would bring in CRT” and that “rational discussion” would be
2 labeled “white supremacy.”¹⁸⁶

- 3 ○ The Board has spent thousands of dollars in public monies for the services of its
4 consultant Arend, who has dismissed systemic racism as a “myth” that is “peddle[d]” by
5 “[r]ace hustler[s]” “to corporations and other audiences, in effect, selling dispensation.”¹⁸⁷
6 According to Arend, “[r]acial prejudice can only be systemic if the system is designed to
7 reflect racial bias, which has not been the case since the civil rights legislation in the
8 1960s.”¹⁸⁸ Arend has espoused multiple offensive stereotypes about Black Americans, for
9 example, attributing “arrests of blacks” not to “racial prejudice” but to “socio-economic
10 and cultural causes, such as the gangster sub-culture, poverty, poor education, growing up
11 in homes without a father, etc.”¹⁸⁹

8 **(ii) Animus on the basis of sexual orientation, gender identity, and sex**

9 Defendant Board members and their supporters have repeatedly voiced animus toward LGBTQ
10 students expressing and learning about their identities.

- 11 ○ During her campaign, Defendant Wiersma lauded a parent who removed a book “with some
12 gay elements” from a District school.¹⁹⁰ Wiersma stated: “It’s the boots on the ground that
13 find [such books] and report it that makes all difference.”¹⁹¹
- 14 ○ At the IEF PAC candidate draft, Defendant Komrosky stated:

15 When teachers . . . can tell the kids, “If you’re a boy and you feel like dressing like a girl, if
16 you’re a girl you’re dressing like a boy,” I saw an instance of that . . . with my own eyes in
17 our community, and I don’t want my son to be affected by it.”¹⁹²

- 18 ○ In a campaign interview with Thompson, Defendant Komrosky stated:

19 ¹⁸⁶ *Id.* at 0:41:25, <https://youtu.be/7wEBdcbRUng?t=2485>.

20 ¹⁸⁷ Christopher Arend, *The myth of ‘systemic racism’*, Cal Coast News (Sept. 2, 2020), <https://calcoastnews.com/2020/09/the-myth-of-systemic-racism/>, *archived at* <https://perma.cc/3BA5-PRY2>.

21 ¹⁸⁸ Arend, *supra* note 187.

22 ¹⁸⁹ *Id.* These stereotypes ignore the well-documented effects of racial profiling and over-policing on arrest
23 rates in communities of color. *See, e.g.*, Magnus Lofstrom et al., *Racial Disparities in Law Enforcement Stops*,
24 Pub. Pol’y Inst. of Cal. (Oct. 2021), <https://www.ppic.org/publication/racial-disparities-in-law-enforcement-stops/> (Black Californians are more than twice as likely to be searched as white
25 Californians, and searches of Black people are less likely to yield contraband and evidence than searches
of white people).

26 ¹⁹⁰ Jen Wiersma (@jen4tvusd), Instagram (Oct. 29, 2022), <https://www.instagram.com/p/CkUZc61JGCD/?hl=en>.

27 ¹⁹¹ *Id.*

28 ¹⁹² IEF PAC Draft, *supra* note 35, at 0:42:35, <https://youtu.be/7wEBdcbRUng?t=2555>.

1 I want more parental involvement. More parents visiting campuses, in the classroom.
2 That way when somebody shows up, like, you know, a guy wearing a dress, and students
3 are feeling uncomfortable, that kind of stuff will stop if there's a parent in the
4 classroom.¹⁹³

4 As he explained to Thompson: “[M]y concern is harm to the kids. Because they don’t
5 understand that kind of abstract thinking, like, ‘What does it mean for me to change my
6 gender?’ . . . That stuff is evil.”¹⁹⁴

6 Finally, Komrosky invoked anti-LGBTQ conspiracy theories: “I talked to a sixth grade
7 teacher at Bella Vista Middle School. This teacher was saying that in between their
8 PowerPoints were flashes of rainbow symbol—signals. It’s like, it’s just all around.”¹⁹⁵

- 8 ○ Defendant Komrosky’s campaign website embeds a video that disparages LGBTQ-inclusive
9 books and asserts that State-mandated comprehensive sexuality education “teaches children
10 to embrace subjective sexual and gender identities, if need be, through the force of law.”¹⁹⁶
11 The video further claims that such education aims to “destroy the nuclear family as the
12 indispensable support of a healthy society”; “teaches that all arrangements and groupings of
13 consenting adults are equally valid”; and “seeks to undermine parental authority” by
14 challenging “conventional understanding[s] of sex and gender.”¹⁹⁷

13 Since the Resolution’s enactment, Board members have continued to express bias and condone
14 discrimination against LGBTQ people and communities. As discussed *supra* para. 120, the Board has
15 censored instruction on the LGBTQ rights movement and Harvey Milk based on a noxious and
16 unfounded stereotype linking LGBTQ people to pedophilia.¹⁹⁸ Defendant Komrosky has called for the
17 removal of multiple books with LGBTQ themes from TVUSD libraries.¹⁹⁹ And in just the first month of

19 ¹⁹³ Our Watch, *Dr. Joseph Komrosky // TVUSD School Board Candidate // School Board Series* at 0:03:58,
20 YouTube (Sept. 13, 2022), <https://youtu.be/ksIG4qARwu4?t=237>.

21 ¹⁹⁴ *Id.* at 0:05:47, <https://youtu.be/ksIG4qARwu4?t=347>.

22 ¹⁹⁵ *Id.* at 0:08:24, <https://youtu.be/ksIG4qARwu4?t=504>.

23 ¹⁹⁶ Protect Our Kids, *What is Comprehensive Sexuality Education* at 0:04:21, YouTube (July 27, 2020),
<https://youtu.be/5eU0gydb8Gc?t=261>.

24 ¹⁹⁷ *Id.* at 0:04:47, <https://youtu.be/5eU0gydb8Gc?t=287>.

25 ¹⁹⁸ Joining Komrosky and Gonzalez, Defendant Wiersma professed to be acting on behalf of parents
26 who told her: “I don’t want my third grader studying LGBTQ issues. I don’t want them going into
gender ideology. I don’t want them looking at it.” May 16 Board Meeting at 1:49:11, https://youtu.be/ABcKfZu7_pU?t=6551.

27 ¹⁹⁹ TVUSD, *supra* note 57 (listing books including *Beyond Magenta: Transgender Teens Speak Out* by Susan
28 Kuklin, *Two Boys Kissing* by David Levithan, and *Looking for Alaska* by John Green); *see generally* Hannah
Natanson, *Objection to sexual, LGBTQ content propels spike in book challenges*, Wash. Post (May 23, 2023),

1 the 2023–2024 school year, the Board has enacted the coercive outing policy challenged herein, targeted
2 the display of LGBTQ pride flags in TVUSD classrooms,²⁰⁰ and rejected a proposed resolution
3 prohibiting discrimination, bullying, and harassment of TVUSD students and employees on the basis of
4 sexual orientation, gender identity, or gender expression.²⁰¹

5 **HOW POLICY 5020.1 VIOLATES CALIFORNIA’S CONSTITUTION**
6 **AND STATUTES**

7 **I. The Policy Discriminates Against Transgender and Gender Nonconforming Students.**

8 140. Policy 5020.1 discriminates against transgender and gender nonconforming students on
9 its face, in intent, and in effect.

10 141. First, the Policy’s express terms single out transgender and gender nonconforming
11 students for adverse treatment. The Policy requires written disclosure to parents or guardians within
12 three days of “any District employee, administrator, or certificated staff” learning that a student is
13 “[r]equesting to be identified or treated” as a gender that differs from “the student’s biological sex” or
14 the “gender listed on the student’s birth certificate or any other official records.”²⁰² Disclosure is
15 mandatory whenever a student requests to go by a different name or pronouns or accesses “sex-
16 segregated” school programs and facilities, such as bathrooms, in accordance with their gender
17 identity.²⁰³ The Policy further requires TVUSD employees to document forced disclosures in students’
18 official records.²⁰⁴

19 142. In addition to the Policy’s express discrimination, statements made by Board members
20 and the Policy’s proponents display animus toward LGBTQ people generally, and transgender and gender
21

22 <https://www.washingtonpost.com/education/2023/05/23/lgbtq-book-ban-challengers/>.

23 ²⁰⁰ *Supra* note 81; Sarah Hofmann, *Temecula Board OKs Policy Banning Pride, Other Flags from Schools*, Press-
24 Enterprise (Sept. 12, 2023), <https://www.pressenterprise.com/2023/09/12/temecula-board-discussing-policy-that-could-ban-pride-flags-from-schools/>.

25 ²⁰¹ Sept. 12 Board Meeting at 4:06:25, https://youtu.be/EYl5Ue8ZwU4?si=oW_J8AaqAzJe9bWZ&t=14785.

26 ²⁰² Policy 5020.1, *supra* note 2, at 1.

27 ²⁰³ *Id.* at 1–2.

28 ²⁰⁴ *Id.* at 4.

1 nonconforming people specifically. During public comment, supporters of the Policy disparaged the
2 experiences and identities of transgender and gender nonconforming individuals as “mental struggles,”²⁰⁵
3 a “mental medical disorder,”²⁰⁶ an “identity crisis,”²⁰⁷ gender confusion,²⁰⁸ and the product of a
4 “destructive agenda.”²⁰⁹ Echoing accusations of grooming and sexualization advanced by Board members
5 and their allies,²¹⁰ one commenter claimed that “Democrats and [the] LGBT crowd are emboldened by
6 support and protection from Sacramento, from unions, from media to indoctrinate kids in their perverse
7 sexual ideology” by “stating their pronouns” and “displaying Pride propaganda.”²¹¹

8 143. Board members defending the proposed Policy exhibited similar biases. Defendant
9 Komrosky likened transgender and gender nonconforming identities to “behavior[s]” of which he
10 disapproved.²¹² Labeling transgender individuals lifelong “medical patient[s]” due to “all the drugs and
11 surgeries,” Komrosky claimed that such individuals would “struggle to find a mate who does not want
12 children of their own.”²¹³ Defendant Gonzalez, for his part, characterized existing District regulations
13 protecting the privacy of students’ gender identities and providing for consultation with students about
14 potential disclosures as facilitating “lies to parents.”²¹⁴

15 144. Tellingly, Komrosky, Wiersma, and Gonzalez voted to enact the Policy notwithstanding
16 multiple warnings from Temecula students, parents, teachers, and community members that its coerced
17 outing provisions would endanger transgender and gender nonconforming youth. As a recent graduate

19 ²⁰⁵ TVUSD, *AUG 22 2023 Governing Board Meeting* [hereinafter Aug. 22 Board Meeting] at 5:38:27,
YouTube (Aug. 22, 2023), <https://youtu.be/0eiEUuXtPNc?t=20307>.

20 ²⁰⁶ *Id.* at 5:57:43, <https://youtu.be/0eiEUuXtPNc?t=21463>.

21 ²⁰⁷ *Id.* at 5:36:01, <https://youtu.be/0eiEUuXtPNc?t=20161>.

22 ²⁰⁸ *Id.* at 2:33:38, <https://youtu.be/0eiEUuXtPNc?t=9218>.

23 ²⁰⁹ *Id.* at 5:04:05, <https://youtu.be/0eiEUuXtPNc?t=18245>.

24 ²¹⁰ *Supra* para. 16 (quoting IEF PAC website describing “The Problem In Schools” as, *inter alia*,
“Perverved Sexual Training,” “Transgenderism Encouraged,” “Growing Indoctrination,” and “Forced
25 LGBTQ+ Acceptance”).

26 ²¹¹ Aug. 22 Board Meeting at 2:25:50, <https://youtu.be/0eiEUuXtPNc?t=8750>.

27 ²¹² *Id.* at 6:25:44, <https://youtu.be/0eiEUuXtPNc?t=23144>.

28 ²¹³ *Id.* at 6:22:55, <https://youtu.be/0eiEUuXtPNc?t=22975>.

²¹⁴ *Id.* at 6:04:12, <https://youtu.be/0eiEUuXtPNc?t=21852>.

1 described, “I’ve had friends kicked out of their houses over this; others beaten, abused, manipulated with
2 electroshock therapy by their family . . . I know people who have killed themselves to escape the bigotry
3”²¹⁵ Another student recounted facing parental rejection that “brought me to the brink of suicide. . . .
4 There was a reason I came out at school and not at home.”²¹⁶ Belying Board members’ claims that the
5 Policy would enable parents to better support their children, not a single transgender or gender
6 nonconforming student spoke in favor of its enactment.

7 145. Temecula parents and educators sounded similar concerns. One mother recounted how
8 her transgender son “was afraid to come out to his father, . . . who openly posts anti-gay, anti-trans
9 rhetoric on his social media.”²¹⁷ Another parent described the Policy as life-threatening, explaining that it
10 would erect “a barrier between a child who is seeking advice, seeking guidance from a teacher who
11 actually cares about them. Not every home is safe. Not every parent is safe.”²¹⁸ As one teacher stated, the
12 Policy threatened to inflict “emotional and physical harm [on] students who do not feel supported or
13 accepted at home.”²¹⁹ For those students, “school may be the only place to find comfort and security”—
14 where they can expect “stability, honesty, and a safe environment.”²²⁰ The teacher warned that the Policy
15 would “erode the relationship between students and teachers” and could lead to “students experiencing
16 violence at home and becoming homeless.”²²¹ Shortly after the Policy’s adoption, TVEA sent a letter to
17 the Board expressing its concern that the Policy violated students’ right to privacy and to freedom from
18 discrimination at school.²²²

19 146. These concerns are well-founded. Recent national surveys of LGBTQ youth have found
20 that nearly one in three transgender and nonbinary youth had experienced housing instability, including
21

22 ²¹⁵ *Id.* at 4:59:12, <https://youtu.be/0eiEUuXtPNc?t=17952>.

23 ²¹⁶ *Id.* at 5:56:32, <https://youtu.be/0eiEUuXtPNc?t=21392>.

24 ²¹⁷ *Id.* at 1:16:50, <https://youtu.be/0eiEUuXtPNc?t=4610>.

25 ²¹⁸ *Id.* at 5:11:18, <https://youtu.be/0eiEUuXtPNc?t=18678>.

26 ²¹⁹ *Id.* at 5:22:39, <https://youtu.be/0eiEUuXtPNc?t=19359>.

27 ²²⁰ *Id.* at 5:22:44, <https://youtu.be/0eiEUuXtPNc?t=19364>.

28 ²²¹ *Id.* at 5:22:56, <https://youtu.be/0eiEUuXtPNc?t=19376>.

²²² *Supra* note 67.

1 homelessness, being kicked out of, or running away from home,²²³ and fewer than one in three found
2 their home to be gender-affirming (*i.e.*, supportive of their gender identity).²²⁴ The State has long
3 understood these risks. Since at least 2014, the California Department of Education has issued guidance
4 recognizing that transgender and gender nonconforming students have a right to privacy in their gender
5 identity and warning that outing students to their parents may “compromise [their] safety” by subjecting
6 them to harassment, discrimination, or abuse.²²⁵

7 147. Faced with these concerns, Defendants Komrosky, Wiersma, and Gonzalez not only
8 pushed forward the Policy, but also refused even to consider creating an opt-out procedure for students
9 fearing harm from their immediate family.

10 148. The Board members’ insistence on enacting Policy 5020.1—which, like Resolution 21,
11 simply parrots partisan and discriminatory legislation passed elsewhere²²⁶—is no accident. In recent
12 years, restricting LGBTQ (and particularly transgender) rights has become “an animating issue for social
13 conservatives,” appealing to distrust of so-called “wokeness,” science, and public education.²²⁷ Claiming
14 to be advocating “parents’ rights,” ideologues have censored “library books and course material,”
15 restricted “transgender students’ use of school bathrooms,” and silenced “instruction on topics related to
16 race, sexual orientation and gender identity.”²²⁸ As USC Professor of Education Julie Marsh observed,
17 “Temecula and Chino and Orange” are all “examples of the same thing”: “a very concerted effort” to
18

19 ²²³ Trevor Project, *National Survey on LGBTQ Youth Mental Health 2020* 8 (2020), [https://](https://www.thetrevorproject.org/wp-content/uploads/2020/07/The-Trevor-Project-National-Survey-Results-2020.pdf)
20 [www.thetrevorproject.org/wp-content/uploads/2020/07/The-Trevor-Project-National-Survey-Results-](https://www.thetrevorproject.org/wp-content/uploads/2020/07/The-Trevor-Project-National-Survey-Results-2020.pdf)
21 [2020.pdf](https://www.thetrevorproject.org/wp-content/uploads/2020/07/The-Trevor-Project-National-Survey-Results-2020.pdf).

22 ²²⁴ Trevor Project, *2022 National Survey on LGBTQ Youth Mental Health* 4 (2022), [https://](https://www.thetrevorproject.org/survey-2022/assets/static/trevor01_2022survey_final.pdf)
23 www.thetrevorproject.org/survey-2022/assets/static/trevor01_2022survey_final.pdf.

24 ²²⁵ Cal. Dep’t. of Educ., *Frequently Asked Questions*, <https://www.cde.ca.gov/re/di/eo/faqs.asp>
25 (responding to the question “May a student’s gender identity be shared with the student’s parents, other
26 students, or members of the public?”).

27 ²²⁶ *Supra* para. 25.

28 ²²⁷ Adam Nagourney & Jeremy W. Peters, *How a Campaign Against Transgender Rights Mobilized Conservatives*,
N.Y. Times (Apr. 16, 2023), [https://www.nytimes.com/2023/04/16/us/politics/transgender-](https://www.nytimes.com/2023/04/16/us/politics/transgender-conservative-campaign.html)
[conservative-campaign.html](https://www.nytimes.com/2023/04/16/us/politics/transgender-conservative-campaign.html).

²²⁸ Brooke Schultz, *EXPLAINER: The history behind ‘parents’ rights’ in schools*, AP News (Nov. 14, 2022),
<https://apnews.com/article/religion-education-gender-identity-0e2ca2cf0ef7d7bc6ef5b125f1ee0969>.

1 exert ideological control over public schools by effacing disfavored ideas and identities.²²⁹

2 149. It has worked. Tragically, Policy 5020.1 has had its intended effect, inflicting
3 disproportionate harm on TVUSD’s transgender and gender nonconforming students. A crisis hotline
4 serving students in Temecula, Murrieta, and Chino Valley has received a high volume of calls from
5 TVUSD students, including one student already outed and experiencing homelessness as a result of the
6 Policy. Already vulnerable to harassment and bullying, LGBTQ students are experiencing heightened
7 stress, anxiety, and fear as a result of the Policy and of being targeted by the Board. At least one student
8 has already missed class time due to anxiety about the Policy’s repercussions. Others are suppressing their
9 gender identities to avoid being outed—and having their outing documented—by their schools. These
10 experiences are consistent with findings on the effects of discriminatory school policies on LGBTQ
11 students nationwide, who were “[n]early three times as likely to have missed school,” “had lower GPAs,”
12 “[w]ere more likely to have been disciplined,” “had lower self-esteem and school belonging,” and
13 experienced “higher levels of depression” than their peers who were not subject to such policies.²³⁰

14 **II. The Policy Violates Temecula Students’ Right to Privacy.**

15 150. The California Constitution safeguards students’ right to privacy, including their gender
16 identity. The California Supreme Court has recognized that, in matters affecting minors’ bodily integrity,
17 life outcomes, and self-concept, requiring parental consent or notification unconstitutionally invades that
18 right.²³¹ As the Court explained, minors “have fundamental interests of their own that may diverge from
19 the interests of the parent”; they are not their parents’ “chattels.”²³² Gender identity—which is central to
20 a student’s personhood, life trajectory, and bodily autonomy—is one such fundamental privacy interest.
21 Policy 5020.1 infringes that interest by mandating the disclosure of students’ gender identity without their
22

23 ²²⁹ Mallika Seshadri, *Orange Unified becomes sixth California district to adopt transgender parental notification policy*,
24 EdSource (Sept. 8, 2023), <https://edsources.org/2023/orange-unified-becomes-sixth-california-district-to-adopt-transgender-parental-notification-policy/697122>.

25 ²³⁰ Joseph G. Kosciw et al., GLSEN, *The 2021 National School Climate Survey: The Experiences of LGBTQ+ Youth in Our Nation’s Schools* xix–xx (2022), <https://www.glsen.org/sites/default/files/2022-10/NCS-2021-Full-Report.pdf>.

27 ²³¹ *Am. Acad. Pediatrics v. Lungren*, 16 Cal. 4th 307, 337 (1997).

28 ²³² *Id.* at 336–37.

1 consent.

2 **CAUSES OF ACTION**

3 **COUNT ONE**

4 **Violation of Article I, Section 7(a) of the California Constitution**
5 **Void for Vagueness**
6 **Teacher Plaintiffs²³³ Against All Defendants**

7 151. All prior paragraphs are incorporated by reference.

8 152. Article I, section 7(a) of the California Constitution provides that a “person may not be
9 deprived of life, liberty, or property without due process of law.”²³⁴

10 153. A law is “void for vagueness if its prohibitions are not clearly defined.”²³⁵ A law is
11 impermissibly vague if it either fails to give a “person of ordinary intelligence . . . a reasonable
12 opportunity to know what is prohibited” or “creat[es] a danger of arbitrary and discriminatory”
13 enforcement.²³⁶

14 154. Resolution 21 is unconstitutionally vague on its face because it fails to provide fair notice
15 of what Temecula educators can and cannot say in their courses. It also authorizes arbitrary and
16 discriminatory enforcement.

17 155. By way of example only, teachers do not know what “other similar frameworks” they are
18 prohibited from introducing. Nor do they know what, if any, classroom discussions of racism or gender
19 discrimination are permissible under the Resolution.

20 156. The Resolution provides no standards to guide its enforcement.

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27 ²³³ “Teacher Plaintiffs” are Plaintiffs TVEA, Eytchison, Miles, Scharf, and Sibby.

28 ²³⁴ Cal. Const., art. I, § 7.

²³⁵ *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972).

²³⁶ *Snatchko*, 187 Cal. App. 4th at 495.

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COUNT TWO

**Violation of Article I, Section 2(a) of the California Constitution
Infringement of Right to Receive Information
Student Plaintiffs,²³⁷ Plaintiffs Rachel P., Inez B., Teacher Plaintiffs, Against All Defendants**

157. All prior paragraphs are incorporated by reference.

158. The Free Speech Clause of the California Constitution protects the right to receive information and ideas.²³⁸ These rights are “more protective, definitive[,] and inclusive of rights to expression of speech than their federal counterparts.”²³⁹

159. A curricular restriction violates students’ right to receive information and ideas where it is not reasonably related to a legitimate pedagogical purpose.²⁴⁰ Curricular decisions “cannot be motivated by an intent to prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.”²⁴¹

160. The Resolution violates the Free Speech Clause, both on its face and as applied, because it restricts students’ access to ideas and viewpoints on a partisan, sectarian, and discriminatory basis.

161. To the extent that the Resolution could be interpreted to have any legitimate pedagogical purpose—which it does not—it is overbroad, because a substantial number of its applications are unconstitutional.²⁴²

22 ²³⁷ “Student Plaintiffs” are Plaintiffs Mae M., Susan C., Gwen S., Carson L., David P., Violet B., and
23 Stella B.

24 ²³⁸ *McCarthy v. Fletcher*, 207 Cal. App. 3d 130, 144 (1989).

25 ²³⁹ *San Diego Unified Port Dist. v. U.S. Citizens Patrol*, 63 Cal. App. 4th 964, 970 (1998) (quoting *Lopez v. Tulare Joint Union High Sch. Dist.*, 34 Cal. App. 4th 1302, 1327 (1995)).

26 ²⁴⁰ *McCarthy*, 207 Cal. App. 3d at 145.

27 ²⁴¹ *Id.* at 146 (quoting *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943)) (internal quotation marks omitted).

28 ²⁴² *United States v. Stevens*, 559 U.S. 460, 473 (2010).

1 **COUNT THREE**

2 **Violation of Article I, Section 7 and Article IV, Section 16(a) of the California Constitution**
3 **Equal Protection – Infringement of the Fundamental Right to Education**
4 **Student Plaintiffs, Plaintiffs Rachel P., Inez B., Teacher Plaintiffs Against All Defendants**

5 162. All prior paragraphs are incorporated by reference.

6 163. Education is a fundamental right under the California Constitution.²⁴³ Where government
7 action “impinges a fundamental right,” strict scrutiny applies “irrespective of motive or intent.”²⁴⁴

8 164. Government action impinges on the fundamental right to education where it denies
9 certain students “an education basically equivalent to that provided elsewhere throughout the State.”²⁴⁵

10 165. By restricting the teaching and learning of content and disciplinary skills mandated under
11 California’s academic standards, the Board has denied, and continues to deny, Temecula students “an
12 education basically equivalent” to what students elsewhere in the State are receiving.²⁴⁶

13 **COUNT FOUR**

14 **Violation of Article I, Section 7 and Article IV, Section 16(a) of the California Constitution**
15 **Equal Protection – Intentional Discrimination on the Basis of Race**
16 **Plaintiffs Mae M., Susan C., Gwen S., Carson L., Violet B., Stella B., Inez B., Miles, TVEA**
17 **Against All Defendants**

18 166. All prior paragraphs are incorporated by reference.

19 167. Article I, section 7(a) of the California Constitution provides that a person “may not be
20 deprived of life, liberty, or property without due process or denied equal protection of the laws.”²⁴⁷

21 168. Article I, section 7(b) of the California Constitution provides that “[a] citizen or class of
22 citizens may not be granted privileges or immunities not granted on the same terms to all citizens.”²⁴⁸

23 169. Article IV, section 16(a) of the California Constitution requires “[a]ll laws of a general

24 ²⁴³ *Serrano*, 5 Cal. 3d at 605–09.

25 ²⁴⁴ *Vergara v. State of California*, 246 Cal. App. 4th 619, 648 n.13 (2016).

26 ²⁴⁵ *Butt*, 4 Cal. 4th at 685.

27 ²⁴⁶ *Id.*

28 ²⁴⁷ Cal. Const. art. I, § 7(a).

²⁴⁸ *Id.* § 7(b).

1 nature” to “have uniform operation.”²⁴⁹

2 170. A plaintiff alleging intentional discrimination need only show that discriminatory purpose
3 was a “motivating factor” behind the challenged action; it need not be the “dominant” or “primary”
4 consideration.²⁵⁰

5 171. Ascertaining discriminatory purpose “demands a sensitive inquiry into such circumstantial
6 and direct evidence of intent as may be available.”²⁵¹ *Arlington Heights* sets forth a non-exhaustive list of
7 factors relevant to ascertaining discriminatory purpose, including (1) evidence of disparate impact,²⁵² (2)
8 the decision’s historical background, (3) the sequence of events leading up to the decision, (4) the
9 decisionmaker’s departures from normal procedures or substantive conclusions, and (5) the decision’s
10 legislative or administrative history.²⁵³

11 172. Applying these factors demonstrates that the Resolution was enacted—at a minimum, in
12 part—with the purpose of discriminating against students and teachers of color. The Resolution
13 expressly singles out for censorship the teaching of concepts related to race and racism, from which
14 students of color derive the most benefit. It is the outgrowth of racial hostility, as seen in the events
15 leading up to its passage. Finally, its enactment was characterized by procedural and substantive
16 irregularities and overt expressions of racial animus, raising a strong inference of discriminatory intent.
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18 **COUNT FIVE**

19 **Violation of Article I, Section 7 and Article IV, Section 16(a) of the California Constitution** 20 **Equal Protection – Intentional Discrimination on the Basis of Sexual Orientation, Gender** 21 **Identity, and Sex** 22 **Plaintiffs Gwen S., TVEA Against All Defendants**

23 173. All prior paragraphs are incorporated by reference.

24 174. Applying the *Arlington Heights* factors also demonstrates the Board’s intent to discriminate
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24 ²⁴⁹ Cal. Const. art. IV, § 16(a).

25 ²⁵⁰ *Arlington Heights*, 429 U.S. at 265–66.

26 ²⁵¹ *Id.* at 266.

27 ²⁵² The fact that the disparate impact is “foreseeable and anticipated” is also “relevant evidence” of
28 discriminatory purpose. *Columbus Bd. of Educ. v. Penick*, 443 U.S. 449, 464–65 (1979) (citation omitted).

²⁵³ *Arlington Heights*, 429 U.S. at 266–68.

1 against LGBTQ students and teachers on the basis of sexual orientation, gender identity, and sex. The
2 Board’s enactment of the Resolution and excision of concepts from instruction expressly single out for
3 censorship the teaching of concepts related to sex (and, as indicated by Board members’ comments,
4 sexual orientation and gender identity). LGBTQ students, like other students from marginalized
5 communities, benefit significantly from representation and recognition in schools’ formal curricula, and
6 are thus disproportionately harmed by the removal of curricular content related to sex, sexual orientation,
7 and gender identity. LGBTQ teachers are deterred from expressing their own identities or even
8 mentioning their families in the classroom. Anti-LGBTQ sentiment pervaded the school board campaign
9 and continues to be expressed by Board members as they implement the Resolution. As set out *supra*,
10 major irregularities in the Resolution’s enactment, the Board’s decision to remove LGBTQ-related
11 content from the District’s history and social science curriculum and instructional materials, and Board
12 members’ overtly anti-LGBTQ statements raise a strong inference of discriminatory intent.

13 **COUNT SIX**

14 **Violation of California Government Code Section 11135**
15 **Discrimination on the Basis of Protected Characteristics**
16 **Individual Plaintiffs²⁵⁴ Against All Defendants**

17 175. All prior paragraphs are incorporated by reference.

18 176. California Government Code section 11135(a) provides:

19 No person in the State of California shall, on the basis of sex, race, color, religion,
20 ancestry, national origin, ethnic group identification, . . . or sexual orientation, be
21 unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to
22 discrimination under, any program or activity that is conducted, operated, or administered
23 by the state or by any state agency, is funded directly by the state, or receives any financial
24 assistance from the state.

25 Subdivision (c) of section 11135 defines sex to include gender, gender identity, and gender expression.

26 177. The provision of education in TVUSD is a program that receives financial assistance
27 from the State.

28 178. As described *supra* paras. 119–139, the Resolution unlawfully subjects Plaintiffs Mae M.,

²⁵⁴ “Individual Plaintiffs” refers to Plaintiffs Mae M., Susan C., Gwen S., Carson L., David P., Violet B., Stella B., Rachel P., Inez B., Eytchison, Miles, Scharf, and Sibby.

1 Susan C., Gwen S., Carson L., Violet B., Stella B., Inez B., and Miles, as well as members of Plaintiff
2 TVEA, to intentional discrimination on the basis of race, color, ancestry, national origin, and ethnic
3 group identification.²⁵⁵

4 179. As described *supra* paras. 122–128, the Resolution unlawfully subjects Plaintiffs Mae M.,
5 Susan C., Gwen S., Carson L., Violet B., Stella B., Inez B., and Miles, as well as members of Plaintiff
6 TVEA, to disparate impact discrimination on the basis of race, color, ancestry, national origin, and ethnic
7 group identification.

8 180. As described *supra* paras. 122–125 and 128, the Resolution unlawfully subjects Plaintiffs
9 Mae M., Susan C., Violet B., and Stella B., to disparate impact discrimination on the basis of sex.

10 181. As described *supra* paras. 140–141, Policy 5020.1 unlawfully subjects Plaintiff
11 Gwen S. to express discrimination on the basis of gender identity, sexual orientation, and sex.

12 182. As described *supra* paras. 118–139, 140, and 142–149, the Resolution and Policy 5020.1
13 unlawfully subject Plaintiff Gwen S. to intentional discrimination on the basis of gender identity, sexual
14 orientation, and sex.

15 183. As described *supra* paras. 122–125 and 127–128, the Resolution unlawfully subjects
16 students and teachers who identify as LGBTQ, including Plaintiff Gwen S., to disparate impact
17 discrimination on the basis of gender identity, sexual orientation, and sex.

18 184. As described *supra* paras. 140 and 149, Policy 5020.1 unlawfully subjects students who
19 identify as LGBTQ, including Plaintiff Gwen S., to disparate impact discrimination on the basis of
20 gender identity, sexual orientation, and sex.

21 **COUNT SEVEN**

22 **Violation of California Code of Civil Procedure Section 526a** 23 **Unlawful Expenditure of Taxpayer Funds** 24 **Teacher Plaintiffs, Plaintiffs Rachel P., Inez B. Against All Defendants**

25 185. All prior paragraphs are incorporated by reference.

26 186. Section 526a, subdivision (a) of the California Code of Civil Procedure provides:

27 An action to obtain a judgment, restraining and preventing any illegal expenditure of,

28 ²⁵⁵ Section 11135's implementing regulations treat these categories synonymously. *See, e.g.*, Cal. Code
Regs. tit. 2, § 11161(b).

1 waste of, or injury to, the estate, funds, or other property of a local agency, may be
2 maintained against any officer thereof, or any agent, or other person, acting in its behalf,
3 either by a resident therein, or by a corporation, who is assessed for and is liable to pay,
or, within one year before the commencement of the action, has paid, a tax that funds the
defendant local agency[]²⁵⁶

4 187. Plaintiffs Eytchison, Miles, Scharf, Sibby, Rachel P., and Inez B., as well as members of
5 Plaintiff TVEA (“Taxpayer Plaintiffs”), have been assessed and found liable to pay taxes in, and/or have
6 paid an assessed tax to, Riverside County, the State of California, and the United States in the last year.

7 188. Defendants’ expenditure of federal, State, county, and/or municipal funds to administer a
8 system of education that contravenes the California Constitution and California antidiscrimination
9 statutes, as challenged herein, is unlawful. Taxpayer Plaintiffs have a well-recognized interest in enjoining
10 the unlawful expenditure of tax funds.

11 189. There is an actual controversy between Taxpayer Plaintiffs and Defendants concerning
12 their respective rights and duties. Taxpayer Plaintiffs contend that Defendants’ policies and/or practices
13 violate the California Constitution and California antidiscrimination statutes, whereas Defendants are
14 likely to contend in all respects to the contrary.

15 190. Unless and until Defendants’ unlawful policies and practices are enjoined by this Court,
16 they will continue to cause great and irreparable injury to Taxpayer Plaintiffs.

17 **COUNT EIGHT**

18 **Violation of Article I, Section 7 of the California Constitution**
19 **Equal Protection – Discrimination on the Basis of Gender Identity, Sexual Orientation, and Sex**
20 **Plaintiff Gwen S., Teacher Plaintiffs²⁵⁷ Against All Defendants**

21 191. All prior paragraphs are incorporated by reference.

22 192. Sex, sexual orientation, and gender identity are suspect classifications under the California
23 Constitution.²⁵⁸

24 _____
²⁵⁶ Cal. Code Civ. Proc. § 526a(a).

25 ²⁵⁷ As the parties upon whom Policy 5020.1 imposes “legal duties and disabilities,” Teacher Plaintiffs
26 have third-party standing to assert the rights of their transgender and gender nonconforming students.
Craig v. Boren, 429 U.S. 190, 196 (1976).

27 ²⁵⁸ See *Catholic Charities of Sacramento, Inc. v. Super. Ct.*, 32 Cal. 4th 527, 564 (2004); *Sail’er Inn, Inc. v. Kirby*, 5
28 Cal. 3d 1, 17–20 (1971); *In re Marriage Cases*, 43 Cal. 4th 757, 843–44 (2008); *Taking Offense v. State*, 66 Cal.
App. 5th 696, 725–26 (2021).

1 193. As described *supra* paras. 140–141, Policy 5020.1 expressly discriminates against
2 transgender and gender nonconforming students.

3 194. As described *supra* paras. 140 and 142–149, Policy 5020.1 also discriminates against
4 transgender and gender nonconforming students in intent and effect.

5 195. Defendants have no compelling interest for this discrimination. Policy 5020.1’s forced
6 disclosure provisions are neither necessary nor narrowly tailored.

7 **COUNT NINE**

8 **Violation of Article I, Section 1 of the California Constitution**

9 **Right to Privacy**

10 **Plaintiff Gwen S., Teacher Plaintiffs²⁵⁹ Against All Defendants**

11 196. All prior paragraphs are incorporated by reference.

12 197. Article I, section 1 of the California Constitution provides that “pursuing and obtaining
13 . . . privacy” is an “inalienable right[.]”²⁶⁰ Gender identity is a privacy interest protected under this
14 provision.²⁶¹

15 198. Policy 5020.1’s forced outing provisions, which mandate the disclosure of students’
16 gender identity to their parents or guardians without their consent, violate the right to privacy of
17 transgender and gender nonconforming students in TVUSD. Defendants have no compelling interest in
18 forcing the disclosure of students’ gender identity.²⁶²

19 **COUNT TEN**

20 **Violation of California Education Code Sections 200 *et seq.***

21 **Discrimination on the Basis of Protected Characteristics**

22 ²⁵⁹ *Supra* note 257.

23 ²⁶⁰ Cal. Const. art. I, § 1.

24 ²⁶¹ *See, e.g., Pettus v. Cole*, 49 Cal. App. 4th 402, 444–45 (1996) (describing “sexual orientation and conduct”
as legally protected privacy interest); *Powell v. Schriver*, 175 F.3d 107, 111–12 (2d Cir. 1999) (noting that
transgender identity is a “private and intimate” detail about oneself protected by the right to privacy).

25 ²⁶² Even if this Court were to recognize parental notification of a student’s gender identity as a
26 compelling interest—which it is not—there are feasible and effective alternatives to forced outing that
27 protect students’ privacy interests while inviting parental involvement. *E.g., TVUSD, Regulation 5145.3:*
Nondiscrimination/Harassment, <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=L5AvcAC0TQZislshgslshikUF80w==&ptid=amIgTZiB9plushNjl6WXhfiOQ==&scid=9slshUHzTHxaaYMVf6zKpJz3Q==&PG=6&IRP=0&isPndg=false> (providing for disclosure of
28 student’s gender identity where “necessary to preserve the student’s physical or mental well-being”).

1 **Individual Plaintiffs Against All Defendants**

2 199. All prior paragraphs are incorporated by reference.

3 200. California Education Code section 200 articulates “the policy of the State of California to
4 afford all persons in public schools, regardless of their . . . gender, gender identity, [or] gender expression
5 . . . equal rights, and opportunities in the educational institutions of the state.”

6 201. California Education Code section 220 prohibits discrimination on the basis of gender,
7 gender identity, or gender expression “in any program or activity conducted by an educational institution
8 that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student
9 financial aid.”

10 202. As described *supra* paras. 140–149, Policy 5020.1 unlawfully subjects transgender and
11 gender nonconforming students in TVUSD to discrimination on the basis of gender, gender identity, or
12 gender expression.

13 **REQUEST FOR RELIEF**

14 Plaintiffs request the following relief:

- 15 a. An Order declaring that Defendants, through Resolution 21, Policy 5020.1, and the
16 related actions, omissions, policies, and/or practices complained of, violate:
- 17 i. Article I, section 7(a) of the California Constitution (void for vagueness);
 - 18 ii. Article I, section 2(a) of the California Constitution (infringement of the right
19 to receive information);
 - 20 iii. Article I, section 7 and Article IV, Section 16(a) of the California Constitution
21 (violation of equal protection);
 - 22 iv. Article I, section 1 of the California Constitution (violation of right to
23 privacy);
 - 24 v. California Government Code section 11135;
 - 25 vi. California Code of Civil Procedure section 526a; and
 - 26 vii. California Education Code sections 200 *et seq.*
- 27 b. Injunctive relief requiring Defendants to cease implementing and enforcing
28 Resolution 21 and Policy 5020.1;
- c. Costs and reasonable attorney’s fees; and

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d. Such other relief as this Court deems just and proper.

Dated: October 13, 2023

Respectfully submitted,

BY:

PUBLIC COUNSEL

s/ Mark Rosenbaum

s/ Amanda Mangaser Savage

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EXHIBIT 1

RESOLUTION NO. 2022-23/21

**RESOLUTION OF THE BOARD OF TRUSTEES OF
THE TEMECULA VALLEY UNIFIED SCHOOL
DISTRICT
PROHIBITING THE TEACHING OF CRITICAL RACE
THEORY**

WHEREAS, All Students deserve a high-quality education and experience in the Temecula Valley Unified School District ("TVUSD" or the "District"); and

WHEREAS, Nothing in this resolution shall require any staff member to violate local, state, or federal law; and

WHEREAS, The TVUSD Board of Education affirms its requirement that teachers rely on the Board of Education adopted curriculum as the authoritative source for the context of instruction; and

WHEREAS, The TVUSD values all students, respects diversity, celebrates the contributions of all, and encourages culturally relevant and inclusive teaching practices. The TVUSD further believes that the diversity that exists among the District's community of students, staff, parents, guardians, and community members is an asset to be honored and valued; and

WHEREAS, The TVUSD believes that people should "not be judged by the color of their skin but by the content of their character" (Dr. Martin Luther King, 1963) ; and

WHEREAS, The TVUSD desires to uplift and unite students by not imposing the responsibility of historical transgressions in the past and instead will engage students of all cultures in age-appropriate critical thinking that helps students navigate the past, present, and future; and

WHEREAS, racism has no place in American society and especially not in the Temecula Valley Unified School District ("TVUSD" or the "District"); and

WHEREAS, the TVUSD condemns racism and will not tolerate racism and racist conduct (see, Board Resolution ##### dated ##### (cite policy against racism here); and

WHEREAS, Critical Race Theory ("CRT") is an ideology based on false assumptions about the United States of America and its population; and

WHEREAS, the definitional foundation of Critical Race Theory involving an artificial distortion of the traditional definition of "racism" is fatally flawed; and

WHEREAS, Critical Race Theory is a divisive ideology that assigns moral fault to individuals solely on the basis of an individual's race and, therefore, is itself a racist ideology; and

WHEREAS, Critical Race Theory assigns generational guilt and racial guilt for conduct and policies that are long in the past; and

WHEREAS, Critical Race Theory violates the fundamental principle of equal protection under the law; and

WHEREAS, Critical Race Theory views social problems primarily as racial problems and, thus, detracts from analysis of underlying socio-economic causes of social problems; and

WHEREAS, Critical Race Theory or other similar frameworks will not be used as a source to guide how topics related to race will be taught; and

WHEREAS, the Board of Trustees of the TVUSD has the legal authority to determine the curriculum taught in the TVUSD within the parameters set by law; and

WHEREAS, the Board of Trustees can require teachers to teach the curriculum approved by the Board of Trustees; and

WHEREAS, the laws of the United States of America and the State of California do not require that Critical Race Theory be taught in public schools (grades K-12); and

NOW, THEREFORE, BE IT RESOLVED on the 13th day of December, 2022, by the Board of Trustees of the Temecula Valley Unified School District:

Critical Race Theory is rejected and will not constitute the basis for any instruction in the TVUSD. The following specific elements of Critical Race Theory cannot be taught:

1. Racism is racial prejudice plus power, a concept that is often used to argue that (i) only individuals classified as "white" people can be racist because only "white" people control society and (ii) individuals in ethnic minorities cannot be racist because they do not control society.
2. Racism is ordinary, the usual way society does business.
3. "Interest convergence" or "material determinism", according to which the incentive to move away from racist policies depends primarily on the self-interest of the oppressor class, i.e. "whites".
4. "Differential racialization", according to which the "dominant society racializes different

minority groups at different times, in response to different needs such as the labor market"¹;

5. The "voice-of-color" thesis, according to which merely "minority status ... brings with it a presumed competence to speak about race and racism"², a concept often used to discredit opposing arguments on the basis of the opposing person's race;

FURTHERMORE, the following doctrines derived from Critical Race Theory cannot be taught:

- a. An individual, by virtue of his or her race or sex, is inherently racist and/or sexist, whether consciously or unconsciously.
- b. Individuals are either a member of the oppressor class or the oppressed class because of race or sex.
- c. An individual is inherently morally or otherwise superior to another individual because of race or sex.
- d. An individual should be discriminated against or receive adverse treatment due to the individual's race or sex, or an individual should receive favorable treatment due to the individual's race or sex.
- e. An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past or present by other members of the same race or sex.
- f. An individual should feel discomfort, guilt, anguish or any other form of psychological distress on account of his or her race or sex.
- g. Meritocracy or traits such as, but not limited to, a hard work ethic or the scientific method are racist or sexist or were created by members of a particular race to oppress members of another race.
- h. The advent of slavery in the territory that is now the United States constituted the true founding of the United States, or the preservation of slavery was a material motive for independence from England.

Notwithstanding the above restrictions, social science courses can include instruction about Critical Race Theory, provided that such instruction plays only a subordinate role in the overall course and provided further that such instruction focuses on the flaws in Critical Race Theory.

ADOPTED this 13th day of December, 2022, on motion of Trustee #####, seconded by Trustee #####, on the following roll call vote:

¹ Richard Delgado, Jean Stefancic, and Angela Harris, *Critical Race Theory*, 3rd edition (New York: NYU Press, 2017), 10.

² Delgado, Stefancic, and Harris, 11.

AYES: __: _____

NOES: __: _____

APPROVE:

####, President

ATTEST:

####, Board Clerk

DRAFT

Exhibit 2

PARENTAL NOTIFICATION

The Temecula Valley Unified School District Board of Education strives to foster trust between the District and parent(s)/guardian(s) of its students. To that end, the Board supports the fundamental rights of parent(s)/guardian(s) to direct the care and upbringing of their children, including the right to be informed of and involved in all aspects of their child's education to promote the best outcomes.

It is the intent of Temecula Valley Unified School District in enacting this parental notification policy to do all of the following:

(I) Provide procedures designed to maintain and, in some cases, restore, trust between school districts and parent(s)/guardian(s) of pupils.

(II) Bring parent(s)/guardian(s) into the decision-making process for mental health and social-emotional issues of their children at the earliest possible time in order to prevent or reduce potential instances of self-harm.

(III) Promote communication and positive relationships with parent(s)/guardian(s) of pupils that promote the best outcomes for pupils' academic and social-emotional success.

It is the policy of the Temecula Valley Unified School District that District employees, administrators and certificated staff collaborate with parent(s)/guardian(s) in evaluating the needs of students having academic, attendance, social, emotional, or behavioral difficulties and in identifying strategies and programs that may assist such students in maximizing their potential.

This parental notification policy requires the following:

1. Principal/designee, certificated staff, and school counselors, shall notify the parent(s)/guardian(s), in writing, within three days from the date any District employee, administrator, or certificated staff, becomes aware that a student is:
 - (a) Requesting to be identified or treated, as a gender (as defined in Education Code Section 210.7) other than the student's biological sex or gender listed on the student's birth certificate or any other official records. This includes any request by the student to use a name that differs from their legal name (other than a commonly recognized diminutive of the child's legal name) or to use pronouns that do not align with the student's biological sex or gender listed on the student's birth certificate or other official records.

PARENTAL NOTIFICATION (cont.)

- (b) Accessing sex-segregated school programs and activities, including athletic teams and competitions, or using bathroom or changing facilities that do not align with the student's biological sex or gender listed on the birth certificate or other official records.
 - (c) Requesting to change any information contained in the student's official or unofficial records.
2. The principal/designee, or staff shall notify the parent(s)/ guardian(s) of the student immediately or as soon as reasonably possible, that the student has experienced any significant physical injury while on school property or participating in a school sponsored activity.
3. All District employees shall take every student's statement regarding suicidal intent seriously.
- (a) Whenever an employee, administrator or certificated staff member suspects or has knowledge of a student's suicidal intentions based on the student's verbalizations or act of self-harm, the employee, administrator or staff member shall promptly notify the principal or school counselor, who shall implement District's intervention protocols, as appropriate, and shall notify the parent(s)/guardian(s) immediately, or as soon as reasonably possible.
 - (b) When a suicide attempt or threat is known, the principal or designee shall ensure student safety by taking the following actions:
 - (I) Immediately secure medical treatment and/or mental health services as necessary;
 - (II) Keep the student under continuous adult supervision until the parent/guardian and/or appropriate support agent or agency can be contacted and has the opportunity to intervene;
 - (III) Notify law enforcement and/or other emergency assistance if a suicidal act is being actively threatened and remove other students from the area in the event of an active suicidal act.
 - (c) The principal or designee shall document the incident in writing, including the steps that the school took in response to the suicide attempt or threat.

PARENTAL NOTIFICATION (cont.)

(d) School employees shall act only within the authorization and scope of their credential or license. An employee is not authorized to diagnose or treat mental illness unless specifically licensed and employed to do so. (Education Code 215).

4. The principal/designee or certificated staff shall notify the parent(s)/guardian(s) of any incident or complaint of a verbal or physical altercation involving their child, including bullying by or against their child, within three days of the occurrence. Any student, parent/guardian, or other individual who believes that a student has been subjected to bullying or who has witnessed bullying may report the incident to a teacher, the principal, District compliance officer, or any other available school employee.

Any complaint of bullying, whether it is discriminatory or nondiscriminatory, shall be investigated and resolved in accordance with law and the District's uniform complaint procedures (UCP) specified in administrative regulation (AR) 1312.3.

5. The principal/designee or certificated staff shall a) notify the parent(s)/guardian(s) in advance about school rules, including disciplinary rules and procedures in accordance with Education Code 48980, attendance policies, dress codes, and procedures for visiting the school; b) notify the parent(s)/guardian(s) promptly in advance if there is a student-sponsored protest being planned during school hours on or off campus, and the school will require parent/guardian written permission prior to their child's participation; and c) notify the parent(s)/guardian(s) immediately if their child was involved in an instance of violence or if their child caused substantial interruption to classroom instruction or campus operations. (Education Code 51101).

6. The principal/designee or certificated staff shall notify the parent(s)/guardian(s) immediately if their child was involved or suspected to be involved in any instances of violence, drug dealing or drug use, or act of sexual misconduct, when there has been an instance involving theft that involves their child or that has interrupted classroom instruction or campus operation, or if their child's personal belongings and/or locker was searched as a result of any suspected theft and how many times the search occurred. (Education Code 49050, 51101).

7. The principal/designee or certificated staff shall timely notify parent(s)/guardian(s) in advance on the school's website of any third-party coming onto campus to present to students or to host an event during the regular school day. (Education Code 51101)

8. The principal/designee and certificated staff shall provide and ensure parent(s)/guardian(s) full access to both the physical and digital libraries maintained by the District as well as all in-kind donations on a monthly basis. (Education Code 51101)

9. Unless otherwise specified, the notification required in sections 1 through 4, 5(b)-(c), and 6 above can be by telephone, mail, email or conference. The District employees who make such notification shall either keep a record of such notification (if written) or document such notification (if verbal) and place the record or documentation in the student's official student information system.

10. For purposes of this Board policy, Family Code Section 6924, Health and Safety Code Section 124260, and Education Code Section 49602(c), inclusion of parent(s)/guardian(s) is appropriate unless specifically prohibited by law. Nothing in this policy affects the obligations of the District's employees, administrators, and certificated staff as mandated reporters under Article 2.5 of the Child Abuse and Neglect Reporting Act Sections 11164-11174.3 of the Penal Code, and the District Policies 5141 and 5141.4).