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7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 CITIZENS FOR QUALITY )  
EDUCATION SAN DIEGO, an )  
11 unincorporated nonprofit association; )  
SAN DIEGO ASIAN AMERICANS )  
12 FOR EQUALITY FOUNDATION, a )  
nonprofit public-benefit corporation; )  
13 SCOTT HASSON, individually and as )  
next friend on behalf of his minor child, )  
14 C.H; CHAOYIN HE, individually and as )  
next friend on behalf of her minor child, )  
15 B.H; XUEXUN HU, individually and as )  
next friend on behalf of his minor child, )  
16 R.H; KEVIN STEEL and MELISSA )  
STEEL, individually and as next friends )  
17 on behalf of their minor child, K.S; and )  
JOSE VELAZQUEZ, individually and as )  
18 next friend on behalf of his minor child, )  
J.V., )

19 Plaintiffs,

20 vs.

21 SAN DIEGO UNIFIED SCHOOL )  
22 DISTRICT; RICHARD BARRERA, in )  
his official capacity as Board President; )  
23 KEVIN BEISER, in his official capacity )  
as Board Vice President; JOHN LEE )  
24 EVANS, in his official capacity as Board )  
25 member; MICHAEL MCQUARY, in his )  
official capacity as Board member; )  
26 SHARON WHITEHURST-PAYNE, in )  
her official capacity as Board member; )  
27 and CYNTHIA MARTEN, in her official )  
capacity as Superintendent, )

28 Defendants.

Case No. '17CV1054 BAS JMA

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF AND  
NOMINAL DAMAGES**

**DEMAND FOR JURY TRIAL**

1 Plaintiffs, by and through their undersigned counsel, bring this Complaint against  
2 the above-named Defendants, their employees, agents, and successors in office, and in  
3 support thereof allege the following upon information and belief:

4 **INTRODUCTION**

5 1. This is a civil rights action brought under the First and Fourteenth  
6 Amendments to the United States Constitution, 42 U.S.C. § 1983, and the California  
7 Constitution, challenging Defendants’ policies, practices, and acts, that, individually and  
8 collectively, deprived and continue to deprive Plaintiffs of their fundamental  
9 constitutional rights.

10 2. “In no activity of the State is it more vital to keep out divisive forces than  
11 in its schools.” *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987). Since July 26, 2016,  
12 Defendants have engaged with the Council on American-Islamic Relations (“CAIR”),  
13 an Islamic advocacy organization, to enact, implement, and enforce an “integrated and  
14 holistic” anti-Islamophobia initiative across the San Diego Unified School District,  
15 purportedly to combat bullying and discrimination against Muslim students and their  
16 families.

17 3. Under the guise of this anti-bullying program, Defendants have fallen in  
18 with the aforementioned religious organization to set up a subtle, discriminatory scheme  
19 that establishes Muslim students as the privileged religious group within the school  
20 community. Consequently, students of other faiths are left on the outside looking in,  
21 vulnerable to religiously motivated bullying, while Muslim students enjoy an exclusive  
22 right to the School District’s benevolent protection.

23 4. The United States Supreme Court has held that government must be neutral  
24 toward religion; and it may not aid, foster, or promote one religion or religious belief  
25 over other religions or religious beliefs. *See Lemon v. Kurtzman*, 403 U.S. 602 (1971);  
26 *see also Santa Fe Independent School Dist. v. Doe*, 530 U.S. 290 (2000).

27 5. Plaintiffs seek a declaration that Defendants violated their constitutional  
28 and statutory rights; a preliminary and permanent injunction enjoining the

1 implementation and enforcement of Defendants’ unconstitutional policies, practices,  
2 and acts; and a judgment awarding nominal damages against all Defendants. Plaintiffs  
3 also seek an award of their reasonable costs of litigation, including attorneys’ fees and  
4 expenses under 42 U.S.C. §§ 1988, Cal. C.C.P. §1021.5, and other applicable law.

5 **JURISDICTION AND VENUE**

6 6. This action arises under the First and Fourteenth Amendments to the United  
7 States Constitution, 42 U.S.C. § 1983, and the California Constitution. Jurisdiction is  
8 conferred on this Court under 28 U.S.C. §§ 1331 and 1343. The Court has supplemental  
9 jurisdiction over the state law claims under 28 U.S.C. § 1367(a).

10 7. Plaintiffs’ claims for declaratory and injunctive relief are authorized by 28  
11 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure,  
12 and by the general legal and equitable powers of this Court. Plaintiffs’ claim for nominal  
13 damages is made under 42 U.S.C. § 1983 and other applicable law.

14 8. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a  
15 substantial part of the events that gave rise to Plaintiffs’ claims occurred in this district.

16 **PLAINTIFFS**

17 9. Plaintiff Citizens for Quality Education San Diego (“CQE-SD”) is an  
18 unincorporated nonprofit association located in San Diego County, California. CQE-  
19 SD’s mission is to empower parents and the local community to revitalize and strengthen  
20 public education so that every child is afforded a quality education. CQE-SD has the  
21 capacity to sue and be sued.

22 10. San Diego Asian Americans for Equality (“SDAAFE”) Foundation is a  
23 public-benefit nonprofit corporation located in San Diego County, California.  
24 SDAAFE’s mission is to advocate for full equality for San Diego Asian Americans by  
25 promoting Asian American values and mobilizing the Asian American community on  
26 issues of concern. SDAAFE has the capacity to sue and be sued.

27 11. Plaintiff Scott Hasson is the parent and legal guardian of Plaintiff C.H., a  
28 minor, who at all relevant times was a first-grade student at an elementary school in the

1 San Diego Unified School District, San Diego County, California. Plaintiff Scott  
2 Hasson is suing on his own behalf and on behalf of C.H., as his next friend. At all  
3 relevant times, Plaintiff Scott Hasson resided within the San Diego Unified School  
4 District.

5 12. Plaintiff Chaoyin He is the parent and legal guardian of Plaintiff B.H., a  
6 minor, who at all relevant times was a fourth-grade student at an elementary school in  
7 the San Diego Unified School District, San Diego County, California. Plaintiff Chaoyin  
8 He is suing on her own behalf and on behalf of B.H., as his next friend. At all relevant  
9 times, Plaintiff Chaoyin He resided within the San Diego Unified School District.

10 13. Plaintiff Xuexun Hu is the parent and legal guardian of Plaintiff R.H., a  
11 minor, who at all relevant times was a fourth-grade student at an elementary school in  
12 the San Diego Unified School District, San Diego County, California. Plaintiff Xuexun  
13 Hu is suing on his own behalf and on behalf of R.H., as his next friend. At all relevant  
14 times, Plaintiff Xuexun Hu resided within the San Diego Unified School District.

15 14. Plaintiffs Kevin and Melissa Steel are the parents and legal guardians of  
16 Plaintiff K.S., a minor, who at all relevant times was a seventh-grade student at a middle  
17 school in the San Diego County Unified School District, San Diego County, California.  
18 Plaintiff Kevin Steel is suing on his own behalf and on behalf of K.S., as his next friend.  
19 Plaintiff Melissa Steel is suing on her own behalf and on behalf of K.S. as his next friend.  
20 At all relevant times, Plaintiffs Kevin and Melissa Steel resided within the San Diego  
21 Unified School District.

22 15. Plaintiff Jose Velazquez is the parent and legal guardian of Plaintiff J.V.,  
23 a minor, who at all relevant times was a ninth-grade student at a high school in the San  
24 Diego Unified School District, San Diego County, California. Plaintiff Jose Velazquez  
25 is suing on his own behalf and on behalf of J.V., as his next friend. At all relevant times,  
26 Plaintiff Jose Velazquez resided within the San Diego Unified School District.

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28 ///

**DEFENDANTS**

1  
2 16. Defendant San Diego Unified School District (“School District”) is a public  
3 entity established and organized under California law and subject to the restrictions of  
4 both the United States and California Constitutions. The School District may sue and  
5 be sued in its own name.

6 17. Defendant Richard Barrera, at all relevant times, was President of the Board  
7 of Education for the School District acting under color of state law. The Board of  
8 Education (“Board”) is the School District’s governing body and is responsible for  
9 creating, adopting, and implementing its policies, practices, customs, acts, and  
10 omissions, including the challenged policies, practices, and acts set forth in this  
11 Complaint. Defendant Barrera is sued in his official capacity.

12 18. Defendant Kevin Beiser, at all relevant times, was Board Vice President for  
13 the School District acting under color of state law. Defendant Beiser is sued in his  
14 official capacity.

15 19. Defendant John Lee Evans, at all relevant times, was a Board member for  
16 the School District acting under color of state law. Defendant Evans is sued in his  
17 official capacity.

18 20. Defendant Michael McQuary, at all relevant times, was a Board member  
19 for the School District acting under color of state law. Defendant McQuary is sued in  
20 his official capacity.

21 21. Defendant Sharon Whitehurst-Payne, at all relevant times, was a Board  
22 member for the School District acting under color of state law. Defendant Whitehurst-  
23 Payne is sued in her official capacity.

24 22. Defendant Cindy Marten, at all relevant times, was the Superintendent of  
25 the School District. Defendant Marten is responsible for creating, adopting, and  
26 implementing School District policies, practices, customs, and acts, including the  
27 challenged policies, practices, and acts set forth in this Complaint. Defendant Marten is  
28 sued in her official capacity.

1 **STATEMENT OF FACTS**

2 **I. The Anti-Islamophobia Initiative.**

3 23. Pursuant to School District policies, School District officials are required  
4 to report all incidents of bullying and harassment of K-12 students based on religion.

5 24. According to a School District “Protected Class Report,” from July 1, 2016,  
6 to December 31, 2016, there were seven reported incidents of bullying and harassment  
7 of K-12 students on the basis of religion.

8 25. According to the School District’s current enrollment report, there are  
9 129,258 K-12 students actively enrolled in the School District. Applying this number,  
10 the number of K-12 students who reported an incident of religious bullying and  
11 harassment is approximately 0.005% of students enrolled in the School District.

12 26. On July 26, 2016, the Board voted unanimously to direct the School District  
13 to develop an initiative that would enact, implement, and enforce policies, practices, and  
14 acts to address Islamophobia and discrimination against Muslim students and their  
15 families (“Anti-Islamophobia Initiative”).

16 27. “Islamophobia” is the “[f]ear, hatred, or mistrust of Muslims or of Islam.”  
17 *Islamophobia*, American Heritage Dictionary (5th ed. 2017).

18 28. A “Muslim” is “[a] believer in or adherent of Islam.” *Muslim*, American  
19 Heritage Dictionary (5th ed. 2017).

20 29. On April 4, 2017, School District officials delivered a PowerPoint  
21 presentation (“Presentation”) to the Board, which updated the Board on the School  
22 District’s Local Control and Accountability Plan (“LCAP”).

23 30. The LCAP is a three-year district-level plan, updated annually, that  
24 describes the School District’s “key goals for students as well as the specific actions  
25 (with expenditures) the district will take to achieve the goals and the means (metrics)  
26 used to measure progress.”

27 31. Pursuant to the LCAP and via the Presentation, the School District  
28 promulgated policies, practices, and acts to enact, implement, and enforce the Anti-

1 Islamophobia Initiative.

2 32. In the Presentation, School District officials issued the following  
3 “*Immediate Action Steps*” for enactment, implementation, and enforcement:

- 4 a. **“*Distribute a letter to staff and parents addressing Islamophobia***  
5 ***and direct support*”**;
- 6 b. **“*Review district calendars to ensure Muslim Holidays are***  
7 ***recognized*”**;
- 8 c. “Include a link of supports on the district’s ‘Report Bullying’ page”;
- 9 d. **“*Provide resources and strategies to support students during the***  
10 ***upcoming month of Ramadan*”**; and
- 11 e. “Continue the collaboration with community partners and district  
12 departments”.

13 33. In the Presentation, School District officials issued the following “*Action*  
14 *Steps: Before the start of the 2017-18 school year*” for enactment, implementation, and  
15 enforcement:

- 16 a. **“*Review and vet materials related to Muslim culture and history at***  
17 ***the Instructional Media Center or in video libraries*”**;
- 18 b. “Provide Resources and materials for teachers on the History/Social  
19 Sciences page”;
- 20 c. “Add information related to this topic in the Annual Employee  
21 Notifications (AP 6381)”;
- 22 d. **“*Explore and engage in formal partnerships with the Council on***  
23 ***American-Islamic Relations (CAIR)*”**.

24 34. In the Presentation, School District officials issued the following “*Steps*  
25 *over multiple years*” for enactment, implementation, and enforcement:

- 26 a. “Create a survey to measure knowledge and implementation of  
27 practice”;
- 28 b. “Identify areas of prevention, intervention, and restoration”

1 including “Restorative Practices” and “Trauma Informed Practices”;

2 c. *“Provide a series of professional development opportunities for*  
3 *staff related to awareness and advocacy for Muslim culture”*; and

4 d. *“Provide practical tools for educators regarding Islamic religious*  
5 *practices and accommodations in schools”*.

6 35. In the Presentation, School District officials issued the following “*Student*  
7 *empowerment*” policies, practices, and acts for enactment, implementation, and  
8 enforcement:

9 a. “Create opportunities for students to come together and share out  
10 their successes and challenges in service of unity”;

11 b. “Identify safe places and individuals for students to reach out to on  
12 campus if they have a concern”; and

13 c. *“Explore clubs at the secondary level to promote the American*  
14 *Muslim Culture and the student experiences”*.

15 36. In the Presentation, School District officials issued the following “*Parent*  
16 *and Community Support*” policies, practices, and acts for enactment, implementation,  
17 and enforcement:

18 a. “Provide Family and Community opportunities to:

19 b. Connect, share experiences, attend professional development, and  
20 receive resources”; and

21 c. “Celebrate the accomplishments of parents, students, and community  
22 in creating safe spaces”.

23 **II. The Council on American-Islamic Relations.**

24 37. The Council on American-Islamic Relations (“CAIR”) identifies itself as  
25 America’s largest Muslim civil liberties organization.

26 38. A stated “Core Principle” of CAIR is that it *“believes the active practice of*  
27 *Islam strengthens the social and religious fabric of our nation.”*

28 39. CAIR’s stated mission is, in part, to *“enhance understanding of Islam”*



1 and “*empower American Muslims.*”

2 40. As part of its advocacy for Muslims and Islam, CAIR “*conducts and*  
3 *organizes lobbying efforts on issues related to Islam and Muslims.*”

4 41. As part of its advocacy for Muslims and Islam, CAIR provides workshops  
5 to educators as a “*proactive approach that highlights relevant Islamic practices and*  
6 *offers suggestions for religious accommodation.*”

7 42. As part of its advocacy for Muslims and Islam, CAIR “counsels, mediates,  
8 and advocates on behalf of Muslims” who have “experienced religious discrimination,  
9 defamation or hate crimes.”

10 **III. Bullying and Harassment of Muslim Students.**

11 43. The School District’s stated purpose for its Anti-Islamophobia Initiative is  
12 to protect Muslim students from bullying and discrimination.

13 44. As a moving force for its Anti-Islamophobia Initiative, the School District  
14 relied and continues to rely upon a report released by CAIR’s California chapter  
15 (“CAIR-CA”) entitled, “Growing in Faith: California Muslim Youth Experiences with  
16 Bullying, Harassment & Religious Accommodation in Schools” (“Report”).

17 45. The Report documented CAIR-CA’s statewide survey of California  
18 Muslim students, the purpose of which was to “better understand how comfortable  
19 American Muslim students felt attending their schools” and achieve its “goal to enhance  
20 its awareness of the extent to which students were being bullied and their responses.”

21 46. According to the Report, “California’s Muslim students, for the most part,  
22 reported a healthy school environment in which they were comfortable participating in  
23 discussions about their religious identity, believed that their teachers respected their  
24 religion, and felt safe at school.”

25 47. According to the Report, only 6% of students reported not feeling safe at  
26 school. Only 7% of students reported that they were “often” or “very often” subjected  
27 to “mean comments” or “rumors about [them] because of [their] religion.”

28 48. The School District has adopted the definition of “bullying” designated by

1 the United States Department of Health and Human Services, which is defined as  
2 follows: “Aggressive behavior that is intentional and that involves an imbalance of  
3 power or strength. Typically, it is repeated over time.”

4 49. The School District’s interpretation of “bullying” is dissimilar to CAIR’s  
5 interpretation of “bullying.”

6 50. In the Report’s *Endnotes* section, CAIR defines “bullying” as follows: “the  
7 term ‘bullying’ refers exclusively to bias-related actions committed by students.”

8 51. The definition of “bias” is a “preference or an inclination, especially one  
9 that inhibits impartial judgment.” *Bias*. American Heritage Dictionary (5th ed. 2017).

10 52. If the School District adopts CAIR’s definition of “bullying” for the Anti-  
11 Islamophobia Initiative, then non-Muslim students who have a *preference or inclination*  
12 *against Islam* will be accused of “bullying” and then subject to investigation and  
13 discipline by school officials.

14 53. CAIR-CA encourages Muslim students to report bullying incidents through  
15 its website. If a Muslim student reports a bullying incident, CAIR-CA may then report  
16 the incident to the School District either orally or through a formal written complaint,  
17 after which school officials will subject the accused “bully” to a formal investigation  
18 and disciplinary action.

19 54. According to CAIR-CA, if the Anti-Islamophobia Initiative is successful,  
20 **“San Diego Unified School District would be the leading school district in the nation**  
21 **to come up with a robust and beautiful anti-bully and anti-Islamophobic program.”**

22 55. CAIR’s expectation for the Anti-Islamophobia Initiative is not just to  
23 address purported instances of bullying and harassment within the School District.  
24 Rather, the Anti-Islamophobia Initiative is a pilot program through which CAIR is  
25 attempting to advance its mission in schools nationwide.

26 56. Defendants’ partnership with CAIR in the anti-Islamophobia program  
27 directly aids CAIR’s organizational objectives of empowering American Muslims and  
28 enhancing the understanding of Islam, both of which are intrinsically religious in nature.

1 **IV. Plaintiffs' Allegations.**

2 57. Plaintiff Scott Hasson plans for C.H. to continue to receive an elementary  
3 school education within the School District. Plaintiff Chaoyin He plans for B.H. to  
4 continue to receive an elementary school education within the School District. Plaintiff  
5 Xuexun Hu plans for R.H. to continue to receive an elementary school education within  
6 the School District. Plaintiffs Kevin and Melissa Steel plan for K.S. to continue to  
7 receive a middle school education within the School District. Plaintiff Jose Velazquez  
8 plans for J.V. to continue to receive a high school education within the School District.

9 58. As parents of students within the School District, collectively and  
10 individually, Plaintiffs do not wish for their children, as they mature and become more  
11 aware of religious differences, to believe that the School District favors Muslim students  
12 and the religion of Islam over students of other faiths. Therefore, Plaintiffs perceive the  
13 Anti-Islamophobia Initiative as the School District's endorsement of Islam and a  
14 rejection of other religions.

15 59. Plaintiffs do not wish for their children, as they learn about world religions,  
16 to be taught a falsified or rewritten history about Muslims and Islam as the School  
17 District introduces new "resources and materials" as part of the Anti-Islamophobia  
18 Initiative. Plaintiffs believe Defendants' favorable treatment of Muslims will result in  
19 biased and inaccurate educational lessons. Accordingly, Plaintiffs believe the School  
20 District will minimize or omit negative facts about Islam that, when included, would be  
21 essential to create an accurate understanding of history.

22 60. Defendants' policies, practices, and acts, separately and in collaboration  
23 with CAIR, constitute government entanglement and approval of the Islamic religion.  
24 Therefore, Plaintiffs object to and are offended by Defendants' collaboration with CAIR  
25 to enact, implement, and enforce the Anti-Islamophobia Initiative.

26 61. Defendants' Anti-Islamophobia Initiative grants the direct benefit of  
27 special government protection to Muslim students under the pretext of preventing  
28 bullying and discrimination, while such protection is unavailable on an equal basis to

1 students of other faiths. Therefore, Plaintiffs object that the School District will protect  
2 and support Muslim students' free exercise of their religion while students of other  
3 religions are prohibited from accessing the School District's faith-based, anti-bullying  
4 protections.

5 62. Defendants have specifically targeted religion for disparate treatment and  
6 have established policies, practices, and acts that permit Muslim students to gain special  
7 access to Defendants' religion-based anti-bullying / anti-discrimination forum, while  
8 denying non-Muslim students access to the same forum.

9 63. Defendants do not have any pedagogical basis to collaborate with a  
10 religious organization to enact, implement, and enforce policies, practices, and acts that  
11 favor a particular religious sect. Therefore, Plaintiffs object to the use of taxpayer funds  
12 to enact, implement, and enforce the Anti-Islamophobia Initiative.

13 64. Defendants' exploration and engagement of formal partnerships between  
14 the School District and CAIR would award CAIR extraordinary discretion, power, and  
15 influence to convey religious messages, including proselytization, to students in an  
16 involuntary and coercive environment. Therefore, Plaintiffs object to and are offended  
17 by Defendants' decision to explore and engage in formal partnerships with CAIR,  
18 because it constitutes government entanglement with religion.

19 65. Plaintiffs do not wish for their children, as non-Muslims, to be accused of  
20 bias and bullying by the School District and CAIR if they express viewpoints or beliefs  
21 that may conflict with the School District's and/or CAIR's arbitrary, *de facto*  
22 interpretations of "bias" and "bullying."

23 66. Plaintiffs do not wish for their children, as non-Muslims, to be ostracized  
24 by other students or staff if they do not accord Muslim students the requisite respect as  
25 Defendants' favored religious sect.

26 67. Therefore, Plaintiffs believe the Anti-Islamophobia Initiative places  
27 coercive pressure on their children to either suppress their personal beliefs and acquiesce  
28 to the School District's favored religious sect or be accused of bullying and

1 discrimination.

2 68. Consequently, Defendants' policies, practices, and acts send a clear  
3 message to the Student Plaintiffs that they are outsiders, not full members of the school  
4 community, while sending the same message that Muslim students are insiders, full  
5 members of the school community.

6 69. As a direct and proximate result of Defendants' continuing violation of  
7 Plaintiffs' rights, Plaintiffs have suffered immediate and irreparable harm. Without  
8 injunctive and declaratory relief as requested herein, Plaintiffs will continue to suffer  
9 immediate and irreparable harm, including, but not limited to, the loss of the ability to  
10 exercise their constitutional rights.

11 **FIRST CLAIM FOR RELIEF**

12 **(Violation of the Establishment Clause of the First Amendment)**

13 70. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

14 71. Because of the aforementioned policies, practices, and acts, engaged in  
15 under color of state law, Defendants have violated the Establishment Clause of the First  
16 Amendment to the United States Constitution as applied to the states and their political  
17 subdivisions under the Fourteenth Amendment to the United States Constitution and 42  
18 U.S.C. § 1983.

19 72. Defendants' policies, practices, and acts, engaged in under state law violate  
20 the Establishment Clause because they lack a valid secular purpose, have the primary  
21 effect of advancing and endorsing a religion and religious practices, and create excessive  
22 entanglement with religion.

23 73. Defendants' policies, practices, and acts, engaged in under color of state  
24 law, convey an impermissible, government-sponsored approval of, and preference for,  
25 Islam. Consequently, Defendants' actions violate the Establishment Clause because  
26 they send a clear message to the Student Plaintiffs that they are outsiders, not full  
27 members of the school community because they are not Muslim, and it sends an  
28 accompanying message that Muslim students are insiders, favored members of the

1 school community.

2 74. As a direct and proximate result of Defendants' violation of the  
3 Establishment Clause, Plaintiffs have suffered, are suffering, and will continue to suffer  
4 irreparable harm, including the loss of their constitutional rights, entitling them to  
5 declaratory and injunctive relief and nominal damages.

6 **SECOND CLAIM FOR RELIEF**

7 **(Violation of the Free Exercise Clause of the First Amendment)**

8 75. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

9 76. Because of the aforementioned policies, practices, and acts, engaged in  
10 under color of state law, Defendants have violated the Free Exercise Clause of the First  
11 Amendment to the United States Constitution as applied to the states and their political  
12 subdivisions under the Fourteenth Amendment to the United States Constitution and 42  
13 U.S.C. § 1983.

14 77. The Student Plaintiffs possess sincerely held religious beliefs, and are  
15 subject to bullying and discrimination because of those sincerely held religious beliefs.  
16 Defendants' Anti-Islamophobia Initiative substantially burdens the Student Plaintiffs'  
17 religious beliefs by denying them access to Defendants' policies, practices, and acts on  
18 an equal basis with Muslim students.

19 78. Defendants' Anti-Islamophobia Initiative is neither neutral nor generally  
20 applicable, and it specifically excludes non-Muslim religious students in a  
21 discriminatory manner.

22 79. There is no compelling interest sufficient to justify excluding non-Muslim  
23 students from Defendants' policies, practices, and acts of supporting religious students  
24 who are subject to bullying and discrimination.

25 80. Defendants' Anti-Islamophobia Initiative is not the least restrictive means  
26 to accomplish any purpose Defendants sought to be served.

27 81. Defendants' Anti-Islamophobia Initiative is not a narrowly tailored  
28 restriction on the Student Plaintiffs' free exercise of religion.

1 82. Because of the aforementioned policies, practices, and acts engaged in  
2 under color of state law, Defendants have violated the Free Exercise Clause of the First  
3 Amendment to the United States Constitution.

4 83. As a direct and proximate result of Defendants' violation of the Free  
5 Exercise Clause, Plaintiffs have suffered, are suffering, and will continue to suffer  
6 irreparable harm, including the loss of their constitutional rights, entitling them to  
7 declaratory and injunctive relief and nominal damages.

8 **THIRD CLAIM FOR RELIEF**

9 **(Violation of the Equal Protection Clause of the Fourteenth Amendment)**

10 84. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

11 85. Defendants' Anti-Islamophobia Initiative is an unconstitutional abridgment  
12 of Plaintiffs' rights to equal protection under the law; it is not facially neutral; and it  
13 specifically targets religion for discriminatory treatment.

14 86. Defendants' Anti-Islamophobia Initiative is unsupported by a compelling  
15 government interest sufficient to justify its enactment, implementation, and  
16 enforcement, nor is it the least restrictive means to accomplish any permissible  
17 governmental purpose sought to be served.

18 87. Because of the aforementioned policy, practice, custom, acts, and  
19 omissions, engaged in under color of state law, Defendants have deprived Plaintiffs of  
20 the equal protection of the law guaranteed under the Fourteenth Amendment to the  
21 United States Constitution and 42 U.S.C. § 1983.

22 88. As a direct and proximate result of Defendants' violation of the Equal  
23 Protection Clause, Plaintiffs have suffered, are suffering, and will continue to suffer  
24 irreparable harm, including the loss of their constitutional rights, entitling them to  
25 declaratory and injunctive relief and nominal damages.

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**FOURTH CLAIM FOR RELIEF**

**(Violation of the No Preference Clause of the California Constitution)**

89. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

90. Because of the aforementioned policies, practices, and acts engaged in under color of state law, Defendants have violated Article I, § 4 of the California Constitution (“No Preference Clause”).

91. Defendants’ Anti-Islamophobia Initiative violates the California Constitution because it lacks a valid secular purpose, has the primary effect of inhibiting religion, and creates excessive entanglement with religion.

92. Defendants’ Anti-Islamophobia Initiative conveys an impermissible, government-sponsored approval of, and preference for, Islam. Consequently, Defendants’ policies, practices, and acts violate the California Constitution because they send a clear message to the Student Plaintiffs that they are outsiders, not full members of the school community, and it sends an accompanying message that Muslim students are insiders, favored members of the school community.

93. As a direct and proximate result of Defendants’ violation of the No Preference Clause, Plaintiffs have suffered, are suffering, and will continue to suffer irreparable harm, including the loss of their constitutional rights, entitling them to declaratory and injunctive relief and nominal damages.

**FIFTH CLAIM FOR RELIEF**

**(Violation of the Establishment Clause of the California Constitution)**

94. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

95. Because of the aforementioned policies, practices, and acts, engaged in under color of state law, Defendants have violated Article I, § 4 of the California Constitution (“Establishment Clause”).

96. Defendants’ Anti-Islamophobia Initiative violates the California Constitution because it lacks a valid secular purpose, has the primary effect of inhibiting religion in favor of another religion, and creates excessive entanglement with religion.



1 97. A reasonable, objective student, parent, or other observer aware of  
2 Defendants' policies, practices, and acts would conclude that Defendants have favored  
3 and continue to favor Muslim students over students of other faiths.

4 98. Defendants' Anti-Islamophobia Initiative in collaboration with CAIR  
5 conveys an impermissible, government-sponsored approval of, and preference for,  
6 Islam. Consequently, Defendants' policies, practices, and acts violate the California  
7 Constitution because they send a clear message to the Student Plaintiffs that they are  
8 outsiders, not full members of the school community, and it sends an accompanying  
9 message that Muslim students are insiders, favored members of the school community.

10 99. As a direct and proximate result of Defendants' violation of the  
11 Establishment Clause of the California Constitution, Plaintiffs have suffered, are  
12 suffering, and will continue to suffer irreparable harm, including the loss of their  
13 constitutional rights, entitling them to declaratory and injunctive relief and nominal  
14 damages.

15 **SIXTH CLAIM FOR RELIEF**

16 **(Violation of the No Aid Clause of the California Constitution)**

17 100. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

18 101. Because of the aforementioned policies, practices, and acts, engaged in  
19 under color of state law, Defendants have violated Article XVI, § 5 of the California  
20 Constitution ("No Aid Clause").

21 102. Defendants have violated the California Constitution's No Aid Clause  
22 because they have used School District time, funds, and resources to enact, implement,  
23 and enforce the Anti-Islamophobia Initiative and advance CAIR's stated mission and  
24 religious objectives.

25 103. Defendants' Anti-Islamophobia Initiative violates the California  
26 Constitution's No Aid Clause because it grants a benefit of protecting a particular  
27 religious sect, and that benefit is unavailable on an equal basis to other religious sects.

28 104. As a direct and proximate result of Defendants' violation of the No Aid

1 Clause of the California Constitution, Plaintiffs have suffered, are suffering, and will  
2 continue to suffer irreparable harm, including the loss of their constitutional rights,  
3 entitling them to declaratory and injunctive relief and nominal damages.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiffs respectfully ask this Court to:

6 1. Declare that Defendants have violated the First and Fourteenth  
7 Amendments to the United States Constitution, as set forth in this Complaint;

8 2. Declare that Defendants have violated the California Constitution, as set  
9 forth in this Complaint;

10 3. Preliminarily enjoin Defendants from enacting, implementing, and  
11 enforcing the unconstitutional policies, practices, and acts of the Anti-Islamophobia  
12 Initiative;

13 4. Permanently enjoin Defendants, in their official capacity, and their  
14 successors in office, and all their respective agents, employees, and others in active  
15 concert with them, from enacting, implementing, and enforcing the unconstitutional  
16 policies, practices, and acts of the Anti-Islamophobia Initiative;

17 5. Award Plaintiffs nominal damages against all Defendants;

18 6. Award Plaintiffs their reasonable attorneys' fees, costs, and expenses under  
19 42 U.S.C. § 1988, Cal. C.C.P. § 1021.5, and other applicable law;

20 7. Grant such other and further relief as this Court finds just and proper.

21 **DEMAND FOR JURY TRIAL**

22 Plaintiffs hereby demand a trial by jury of all triable issues.

23 Respectfully submitted,

24 **FREEDOM OF CONSCIENCE DEFENSE FUND**

25  
26 Dated: May 22, 2017

By:           /s/ Charles S. LiMandri          

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