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(SPACE BELOW FOR FILING STAMP ONLY)

5 Attorneys for Defendants  
6 MCSWAIN UNION ELEMENTARY SCHOOL  
DISTRICT; TERRIE ROHRER; C.W. SMITH, and  
7 MARTHA HERNANDEZ

8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

10  
11 T.A., a minor (by and through next friend),  
ANNA AMADOR,

Case No. 1:08-CV-01986-OWW-DLB

12 Plaintiff,

**ORDER ON PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT**

13  
14 v.

15 MCSWAIN UNION ELEMENTARY  
SCHOOL DISTRICT; TERRIE ROHRER,  
Principal of McSwain Elementary School,  
16 individually and in her official capacity;  
C.W. SMITH, Assistant Principal of  
17 McSwain Elementary, individually and in  
his official capacity, and MARTHA  
18 HERNANDEZ, Office Clerk for McSwain  
Elementary School, Individually and in her  
19 official capacity,

20 Defendants.

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22 This matter came on for hearing on June 22, 2010, on the duly noticed Motion for  
23 Summary Judgment filed by Plaintiff T.A., a minor (by and through next friend), ANNA  
24 AMADOR ("Plaintiff"). Attorney William J. Becker, Jr. of The Becker Law Firm appeared on  
25 behalf of Plaintiff and argued in support of the Motion. Attorneys Anthony N. DeMaria and  
26 Marisa L. Balch of McCormick, Barstow, Sheppard, Wayte & Carruth LLP appeared on behalf of  
27 Defendants MCSWAIN UNION ELEMENTARY SCHOOL DISTRICT; TERRIE ROHRER;  
28 C.W. SMITH, and MARTHA HERNANDEZ ("Defendants") and argued in opposition of the  
78046/00057-1590870.v1

1 Motion. The court has read the papers submitted in support and in opposition of the motion, and  
2 considered the arguments of counsel and the authorities cited to the court.

3 The court has concluded that Plaintiff's requests for summary judgment on her First Claim  
4 for Relief for Freedom of Speech- First Amendment and her Third Claim for Relief for Equal  
5 Protection- Fourteenth Amendment (42 U.S.C. § 1983) are inappropriate, as issues of fact remain  
6 in connection therewith. The court has further concluded that Plaintiff's request for summary  
7 judgment on her Fourth Claim for Relief for Due Process- Fourteenth Amendment (42 U.S.C. §  
8 1983) is inappropriate on the grounds that, given the school context, Defendants' dress code  
9 policy does not violate due process. Additionally, the court has concluded that Plaintiff is not  
10 entitled permanent injunction against Defendants as Plaintiff is no longer a student at MCSWAIN  
11 UNION ELEMENTARY SCHOOL DISTRICT, and therefore her claims for injunctive relief  
12 against MCSWAIN UNION ELEMENTARY SCHOOL DISTRICT are now moot. Finally, the  
13 court has concluded that Plaintiff is not entitled to summary judgment on the issue of qualified  
14 immunity as failing to provide authority to support her contention and a factual dispute remain in  
15 connection therewith. Therefore,

16  
17 IT IS HEREBY ORDER THAT:

- 18 1. Plaintiff's request for summary judgment on her First Claim for Relief for  
19 Freedom of Speech- First Amendment (42 U.S.C. § 1983) is DENIED;
- 20 2. Plaintiff's request for summary judgment on her Third Claim for Relief for Equal  
21 Protection- Fourteenth Amendment (42 U.S.C. § 1983) is DENIED;
- 22 3. Plaintiff's request for summary judgment on her Fourth Claim for Relief for Due  
23 Process- Fourteenth Amendment (42 U.S.C. § 1983) is DENIED;
- 24 4. Plaintiff's request for summary judgment on the issue of qualified immunity is  
25 DENIED;
- 26 5. Plaintiff's request for summary judgment on her claims for injunctive relief is  
27 DENIED; and
- 28 6. Plaintiff's claims for injunctive relief are now moot.

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IT IS SO ORDERED.

Dated: July 22, 2010

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE