

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

S.M., A MINOR, et al.,
Plaintiffs,

No. C 07-05829 CRB

ORDER

v.

WEST CONTRA COSTA COUNTY
UNIFIED SCHOOL DISTRICT
FINANCING CORPORATION, et al.,
Defendants.

Now pending before the Court is defendants’ motion to dismiss the claims of the First Amended Complaint (“FAC”). After carefully reviewing the parties’ papers, the Court concludes that oral argument is unnecessary, see Local Rule 7-1(b), and rules as follows:

1. Defendants’ motion to dismiss the section 1983 monetary claims against the School District and any defendants sued in their official capacities as barred by the Eleventh Amendment is GRANTED without leave to amend. See Belanger v. Madera Unified School Dist., 963 F.2d 248, 250-54 (9th Cir. 1992).

2. Defendants’ motion to dismiss the state law claims against the School District and any defendants sued in their official capacities for monetary damages as barred by the Eleventh Amendment is GRANTED without leave to amend. See Cholla Ready Mix, Inc. v. Civish, 382 F.3d 969, 973 (9th Cir. 2004).

1 3. Defendants' motion to dismiss plaintiffs' remaining claims is GRANTED with
2 leave to amend. On or before **October 20, 2008**, plaintiffs shall file a Second Amended
3 Complaint as follows:

4 • Each separate "claim for relief" shall be made by only one plaintiff and
5 the claim must specify precisely which defendants are sued on the claim, and whether they
6 are sued in their official or individual capacities.

7 • Each "claim for relief" shall identify the facts/incidents that form the
8 basis for that claim as to each of the sued defendants, including, as precisely as possible, the
9 dates of the incidents and the persons involved.

10 • Each "claim for relief" shall identify the statute or common law under
11 which the claim is being made. Federal claims and state claims shall not be made in a single
12 claim for relief.

13 For example, plaintiff S.M. appears to contend that "defendants" retaliated against
14 him for "questioning a class drawing assignment that seemed to oppose his religious beliefs."
15 FAC ¶ 5. If he intends to state a first amendment/retaliation claim, and he believes in good
16 faith that the claim survives the March 2007 settlement agreement and the Eleventh
17 Amendment, he must allege a separate claim for relief that identifies (1) the statute under
18 which he brings his claim, (2) the defendants he sues on that particular claim and whether
19 they are sued in their official or individual capacities, and (3) the facts that support the claim,
20 including the relevant date(s) and the persons involved.

21 4. The parties shall appear at a further Case Management Conference at 8:30 a.m.
22 on **October 31, 2008**. Defendants do not need to respond to the SAC prior to the CMC. At
23 the CMC the parties should be prepared to discuss a trial date and alternative dispute
24 resolution.

25 **IT IS SO ORDERED.**

26 Dated: Sep. 23, 2008



27 CHARLES R. BREYER
28 UNITED STATES DISTRICT JUDGE

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