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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

STEPHEN J. WILLIAMS,

Plaintiff,

v.

PATRICIA VIDMAR, Principal of Stevens
Creek School, WILLIAM BRAGG,
Superintendent of Cupertino Union School
District, PEARL CHENG, BEN LIAO,
JOSEPHINE LUCEY, GARY MCCUE,
GEORGE TYSON, Board members of
Cupertino Union School District, in their
official capacities only,

Defendants.

CASE NO. 5:04-CV-4946 JW PVT

**VERIFIED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

1 Comes now the plaintiff, Stephen J. Williams, by and through counsel, pursuant to the
2 Federal Rules of Civil Procedure and against the Defendants avers the following:

3 **I.**

4 **INTRODUCTION**

5 1. This case is about the First Amendment rights of Stephen Williams, a public
6 school teacher and orthodox Christian. The Defendants have censored Mr. Williams' choices of
7 supplemental handouts – chiefly excerpts of primary source documents from America's founding
8 era, or from state constitutions – containing religious content because Mr. Williams is a
9 Christian. Defendants have ordered Mr. Williams (but no other current teacher) – not to
10 distribute any supplemental handout unless it appears on a list of authorized handouts that
11 applies only to Mr. Williams. This is a violation of the First and Fourteenth Amendments to the
12 United States Constitution for which Mr. Williams seeks declaratory relief, injunctive relief,
13 costs and attorneys' fees.

14 **II.**

15 **JURISDICTION AND VENUE**

16 2. This action arises under the United States Constitution, particularly the First and
17 Fourteenth Amendments; and under federal law, particularly 28 U.S.C. §§ 2201, 2202 and 42
18 U.S.C. §§ 1983 and 1988.

19 3. This Court has original jurisdiction over these federal claims by operation of 28
20 U.S.C. §§ 1331 and 1343.

21 4. This Court has authority to issue the requested declaratory relief under 28 U.S.C.
22 § 2201.

23 5. This Court has authority to issue the requested injunctive relief under 28 U.S.C. §
24 1343(a)(3).

25 6. This Court is authorized to award attorneys' fees under 42 U.S.C. § 1988.

26 7. Venue is proper under 28 U.S.C. § 1391 in the Northern District of California
27 because this claim arose there, and the parties reside within the District.

1 **III.**

2 **INTRADISTRICT ASSIGNMENT**

3 8. Pursuant to L.R. 3-2(e) & 3-5, this case is a civil rights case, in a non-expected
4 category, suitable for assignment to the San Jose division because the civil action arose in Santa
5 Clara County.

6 **IV.**

7 **IDENTIFICATION OF PARTIES**

8 9. Plaintiff Stephen J. Williams is a resident of Mountain View, California.

9 10. Defendant Patricia Vidmar is Principal of Stevens Creek School, within the
10 Cupertino Union School District. Among other things, this Defendant is responsible for setting
11 the policies at Stevens Creek School and implementing the policies of Stevens Creek School and
12 the Cupertino Union School District.

13 11. Defendant William Bragg is Superintendent of Cupertino Union School District.
14 Among other things, this Defendant is responsible for setting and implementing policies for
15 schools within the Cupertino Union School District.

16 12. Defendant Pearl Cheng is a member of the Board of Education of the Cupertino
17 Union School District. Among other things, this Defendant is responsible for setting policies for
18 schools within the Cupertino Union School District.

19 13. Defendant Ben Liao is a member of the Board of Education of the Cupertino
20 Union School District. Among other things, this Defendant is responsible for setting policies for
21 schools within the Cupertino Union School District.

22 14. Defendant Josephine Lucey is a member of the Board of Education of the
23 Cupertino Union School District. Among other things, this Defendant is responsible for setting
24 policies for schools within the Cupertino Union School District.

25 15. Defendant Gary McCue is a member of the Board of Education of the Cupertino
26 Union School District. Among other things, this Defendant is responsible for setting policies for
27 schools within the Cupertino Union School District.

1 28. Mr. Williams expressed to Principal Vidmar his understanding that he is not
2 allowed to “proselytize” his personal religious beliefs to students when acting as a public school
3 teacher.

4 29. In September 2003, at the beginning of class, a School student asked Mr.
5 Williams “Why do we say ‘under God’ in the Pledge of Allegiance?”

6 30. Mr. Williams facilitated a short discussion among the students about the reasons
7 for “under God” in the Pledge of Allegiance.

8 31. Mr. Williams did not attempt to influence the students’ beliefs regarding religion.

9 32. Shortly after school ended on that day, Principal Vidmar entered the classroom
10 and asked Mr. Williams “why God was being taught” during class.

11 33. Mr. Williams explained that a student had asked a question and that he had
12 facilitated a short discussion on the subject of “under God” in the Pledge of Allegiance.

13 34. In October 2003, during a lesson on Christopher Columbus, the textbook
14 referenced Columbus as a “missionary” seeking to spread Christianity.

15 35. A School student asked Mr. Williams: “What’s a Christian?”

16 36. Mr. Williams replied: “Someone who follows the teachings of Jesus Christ.”

17 37. Shortly after school ended on that day, Principal Vidmar entered the classroom
18 and asked Mr. Williams: “What are you doing talking about Jesus Christ?”

19 38. Mr. Williams explained that he had responded to a student’s direct question
20 regarding content in the textbook and did not attempt to influence the students’ beliefs regarding
21 Christianity.

22 39. Mr. Williams frequently supplements the district-approved textbooks with
23 curriculum-related literature for his students to understand the topic under study.

24 40. It is not uncommon for teachers within the District to supplement District
25 textbooks with curriculum-related literature and other handouts.

26 41. Mr. Williams chooses supplemental literature that, in his judgment as a
27 professional educator, satisfy the California History-Social Science content standards for the fifth
28 grade.

1 42. Many teachers employed by the District supplement the textbooks for each
2 subject with curriculum-related literature and other handouts.

3 43. In his judgment as a professional educator, Mr. Williams cannot satisfy the
4 California History-Social Science content standards for the fifth grade if he does not supplement
5 the textbooks with historical literature and other appropriate handouts.

6 44. In November 2003, Mr. Williams distributed to his students a supplemental
7 activity assignment that he had used in previous years in conjunction with the “The Lion, the
8 Witch, and the Wardrobe” by C.S. Lewis, which is on the school’s approved reading list.

9 45. One of the nine possible activities in the supplement – Mr. Williams asked the
10 students to choose five – asked students to discuss Mr. Lewis’ intention to write the book as a
11 Christian allegory.

12 46. Aware of Principal Vidmar’s quick reaction to the student-initiated discussion of
13 “under God” and the mention of “Jesus Christ” in Mr. Williams’ classroom, Mr. Williams
14 proactively gave a copy of the activity assignment to Principal Vidmar.

15 47. Visibly annoyed, Principal Vidmar asked Mr. Williams: “What are you doing?”

16 48. Mr. Williams explained that he had used the same handout in previous years with
17 no complaints.

18 49. Principal Vidmar then approved the C.S. Lewis activity assignment.

19 50. In late November 2003, aware of Principal Vidmar’s quick reaction to the
20 student-initiated discussion of “under God,” the mention of “Jesus Christ,” and the C.S. Lewis
21 activity assignment, Mr. Williams informed Principal Vidmar that he planned to distribute a
22 “Myth/Fact” handout about Thanksgiving from The History Channel website and a handout
23 containing President Bush’s Thanksgiving proclamation.

24 51. Because of Principal Vidmar’s reactions in the past, Mr. Williams also invited
25 Principal Vidmar to observe the lesson if she so chose.

26 52. Principal Vidmar approved the lesson and came to observe the lesson where Mr.
27 Williams distributed these handouts. Mr. Williams went through the “Myth/Fact” handout with
28 the students, and then read portions of President Bush’s Thanksgiving proclamation.

1 53. In December 2003 and January 2004, Mr. Williams presented a series of lessons
2 on the various winter holidays. Mr. Williams instructed his students that the origin of the word
3 “holiday” comes from the words “holy day.” Each student was to pick a holiday and write a
4 report about it. Mr. Williams facilitated student discussion of each holiday – Ramadan, Dewali,
5 Kwanzaa, Hanukkah, Christmas, and the Chinese New Year – usually one discussion per day.

6 54. Mr. Williams received no complaints from Principal Vidmar nor anyone else
7 about the holiday assignment, despite the religious connotations of several of the holidays.

8 55. In April 2004, Mr. Williams distributed an Easter Card to school staff and fellow
9 teachers. The Card contained ideas obtained from an education website for ways teachers could
10 inform students about the Easter holiday in the classroom without violating the Establishment
11 Clause of the First Amendment to the United States Constitution.

12 56. Mr. Williams prepared an Easter activity sheet for students, with ideas similar to
13 those found in the Easter Card, and submitted it to Principal Vidmar for approval.

14 57. On April 7, 2004, Principal Vidmar denied the Easter activity sheet via email,
15 stating that “Easter and Christianity should not be part of your classroom instruction or
16 discussions.”

17 58. In the same email, Principal Vidmar for the first time wrongly accused Mr.
18 Williams of “being insensitive to our diverse religious community by insisting on focusing on
19 your own beliefs in the classroom.”

20 59. Principal Vidmar provided no specific complaints or examples in the email to
21 support her accusation.

22 60. On May 6, 2004, Mr. Williams provided students with a handout containing the
23 history of the National Day of Prayer on one side of the page, and President Bush’s proclamation
24 of a Day of Prayer on the other.

25 61. A parent with a student in Mr. Williams’ class emailed a complaint about this
26 handout to Mr. Williams and to Principal Vidmar.

27 62. Mr. Williams responded to the parent via email, explaining that he had included
28 the document during the class lessons about George Washington and the first Continental

1 Congress as an example of the historical integration of prayer into the society of the founding
2 era.

3 63. On May 11, 2004, Principal Vidmar issued a memo to Mr. Williams stating, *inter*
4 *alia*, that “[i]t is not appropriate for you to be sending home material of a religious nature to your
5 students and their families.” The memo also states: “I . . . am, hereby, directing you to stop
6 sending out materials of a religious nature with your students. I am directing you to provide me
7 with an ‘advance’ copy of materials you will be sending home at least two days prior to their
8 being sent out so I can make sure that the materials will not be of concern to the parents or
9 violate the separation of religion and public education.” (emphasis added).

10 64. During the meeting with Principal Vidmar where Mr. Williams received the May
11 11, 2004 memo, Mr. Williams expressed his continued desire to follow all of the rules of the
12 school and district, and to comply with federal and state law regarding the discussion of religion
13 in public schools.

14 65. On May 14, 2004, Mr. Williams informed Principal Vidmar that his students were
15 experiencing confusion over the “separation of church and state.” He requested permission to
16 distribute a number of handouts to his students as part of a forty-five (45) minute lesson to
17 demonstrate the founder’s beliefs about religion, and how those beliefs influenced the way the
18 United States government was formed. These documents included:

- 19 a. “American Independence was Achieved Upon the Principles of Christianity” by
20 John Adams;
- 21 b. “What Great Leaders Have Said About the Bible” – author unknown;
- 22 c. Letter, “To the Officers of the First Brigade of the Third Division of the Militia of
23 Massachusetts” (October 1, 1798), by John Adams,
- 24 d. “Religious Clauses in State Constitutions” – author unknown;
- 25 e. “John Adam’s Diary,” (selected entries Feb. 22, 1756 – Aug. 24, 1796);
- 26 f. “George Washington’s Prayer Journal,” from William J. Johnson, *George*
27 *Washington: the Christian* 24-35 (1919);

- 1 g. “The Conversion of Quaker Isaac Potts to the Cause of Patriotism through the
2 Observation of George Washington’s Prayer,” from Rev. Nathaniel Randolph
3 Snowden, *Diary and Remembrances*;
- 4 h. “George Washington’s Adopted Daughter Discusses Washington’s Religious
5 Character,” by Nelly Custis-Lewis;
- 6 i. “The First Prayer in Congress,” by Jacob Duche (Sept. 7, 1774); and
7 j. “Commentaries on the Laws of England,” by William Blackstone (selected
8 excerpts).

9 66. Each of these historical documents contains religious references.

10 67. Each of these historical documents has non-religious, educational value.

11 68. None of these documents contains exhortations for the students to follow
12 Christianity or Mr. Williams’ personal religious beliefs.

13 69. Mr. Williams did not intend to distribute all of these documents to students as part
14 of the short lesson he was preparing.

15 70. On May 14, 2004, Principal Vidmar denied permission to distribute or discuss
16 these documents.

17 71. In accordance with Principal Vidmar’s instructions, Mr. Williams did not handout
18 or discuss these documents.

19 72. On May 18, 2004, Mr. Williams emailed Principal Vidmar seeking permission to
20 distribute three documents as part of a short lesson on the how the founder’s religious beliefs
21 influenced the formation of our government. These included excerpts from

- 22 a. the Declaration of Independence,
23 b. William Penn’s “Frame of Government”; and
24 c. Samuel Adams’ “The Rights of the Colonists.”

25 73. Each of these historical documents contains religious references.

26 74. Each of these historical documents have non-religious, historical value.

27 75. None of these documents contains exhortations for the students to follow
28 Christianity or Mr. Williams’ personal religious beliefs.

1 76. In the May 18, 2004 email, Mr. Williams reiterated to Principal Vidmar his desire
2 for the students to understand why many of our historical documents contain religious references
3 and how the founders’ religious beliefs influenced the formation of our government. Mr.
4 Williams also expressed his feeling that everything religious was being censored from his
5 curriculum because of his personal beliefs. Mr. Williams also repeated his desire to follow all of
6 the rules of the school and district, and to comply with federal and state law regarding the
7 discussion of religion in public schools.

8 77. In a memo dated May 19, 2004, Principal Vidmar denied Mr. Williams’ request to
9 distribute the three documents, stating, *inter alia*, that “[t]he materials you submitted yesterday
10 are once again of religious nature and are not appropriate to be used with your fifth grade
11 students because the district honors separation of church and state in school.”

12 78. In the May 19, 2004 memo, Principal Vidmar also instructed Mr. Williams to
13 submit his weekly lesson plans to her for the remainder of the school year.

14 79. On May 21, 2004, Principal Vidmar called for a meeting with Mr. Williams to be
15 held on May 27, 2004.

16 80. On May 27, 2004, Principal Vidmar issued a memo ordering him, *inter alia*, not
17 to emphasize his religion in the classroom and to “cease seeking Christian materials to present as
18 supplementary materials and resources” for his students.” The memo also states: “If any future
19 incidents occur, you will be subject to formal discipline up to and including dismissal.”

20 81. On June 22, 2004, Mr. Williams responded to the May 27, 2004 memo by
21 pointing out that he had never actually distributed to students any of the documents referenced in
22 the memo except for the National Day of Prayer handout. Mr. Williams also repeated his desire
23 to follow all of the rules of the school and district, and to comply with federal and state law
24 regarding the discussion of religion in public schools.

25 82. On September 29, 2004, at Mr. Williams’ “Goals conference,” Principal Vidmar
26 issued a packet of materials to Mr. Williams and directed that Mr. William’s future social studies
27 handouts must only come from that packet of materials.

1 83. At that same “Goals conference,” Principal Vidmar and District employee Pat
2 McCreary made it clear that Mr. Williams could be subject to dismissal if he distributed
3 handouts other than those contained in the packet of materials Mr. Williams had just received.

4 84. Since approximately May 14, 2004, Principal Vidmar has systematically rejected
5 Mr. Williams’ proposed lesson plans and proposed supplemental handouts referenced herein that
6 contain information about the role religion played in the founding of our country.

7 85. Principal Vidmar rejected the proposed lesson plans and proposed supplemental
8 handouts referenced herein because of their religious content.

9 86. Mr. Williams has not distributed any document or taught any lesson rejected by
10 Principal Vidmar.

11 87. Other teachers at the School are not required to submit all of their lesson plans
12 and supplemental handouts to Principal Vidmar in advance.

13 88. Other teachers at the School are not required to use supplemental handouts only
14 from a packet issued by Principal Vidmar.

15 89. Less than five percent of all of Mr. Williams’ supplemental handouts actually
16 distributed throughout the school year contain references to religion.

17 90. Mr. Williams does not emphasize religion in his classroom.

18 91. Other than the religious references that occasionally occur in the textbook
19 readings, student discussions, his prepared lesson plans, and supplemental handouts during the
20 school year, Mr. Williams does not distribute religious material to students.

21 92. Other than religious references that occasionally occur in the textbook readings,
22 student questions, his prepared lesson plans, and supplemental handouts during the school year,
23 Mr. Williams does not discuss religion with students when acting in his capacity as a public
24 school teacher.

25 93. Mr. Williams does not discuss his personal religious beliefs with students when
26 acting in his capacity as a public school teacher.

27 **California State Law**

28 94. California Education Code § 51511 states:

1 Nothing in this code shall be construed to prevent, or exclude from the public
2 schools, references to religion or references to or the use of religious literature,
3 dance, music, theatre, and visual arts or other things having a religious
4 significance when such references or uses do not constitute instruction in religious
5 principles or aid to any religious sect, church, creed, or sectarian purpose and
6 when such references or uses are incidental to or illustrative of matters properly
7 included in the course of study.

8 95. On its face, California Educational Code § 51511 permits, *inter alia*, “religious
9 literature” and “other things having a religious significance” as part of the school curriculum.

10 **California’s History-Social Science Content Standards**

11 96. The California Department of Education has promulgated content standards for
12 fifth grade curriculum taught in California public schools, including the District’s schools.

13 97. The District’s schools are required to educate fifth grade students according to the
14 State’s content standards.

15 98. The California Department of Education has published the content standards
16 governing history and the social sciences as part of a book entitled “History-Social Science
17 Framework for California Public Schools Kindergarten through Grade Twelve” (“Framework”).

18 99. In that book, the History-Social Science Content Standards for Grade Five are
19 entitled “United States History and Geography: Making a New Nation.” A true and correct copy
20 of these standards (including the cover pages of the Framework) is attached as Exhibit A.

21 100. The introduction to the History-Social Science Content Standards for Grade Five
22 state: “This course focuses on one of the most remarkable stories in history: the creation of a new
23 nation . . . founded on the Judeo-Christian heritage. . . .” Ex. A at 64.

24 101. This nation was founded on the Judeo-Christian heritage.

25 102. Standard 5.2.2 states “Explain . . . the reasons Europeans chose to explore and
26 colonize the world (e.g., the Spanish Reconquista, the Protestant Reformation, the Counter
27 Reformation).” *Id.* at 71.

28 103. Standard 5.4 requires that the “Student understand the political, religious, social,
and economic institutions that evolved in the colonial area.” *Id.* at 72.

1 104. Standard 5.4.2 states: “Identify the major individuals and groups responsible for
2 the founding of the various colonies and the reasons for their founding (e.g., . . . William Penn,
3 Pennsylvania. . .).” *Id.*

4 105. Standard 5.4.3 states: “Describe the religious aspects of the earliest colonies (e.g.,
5 Puritanism in Massachusetts, Anglicanism in Virginia, Catholicism in Maryland, Quakerism in
6 Pennsylvania).” *Id.*

7 106. Standard 5.4.4 states: “Identify the significance and leaders of the First Great
8 Awakening, which marked a shift in religious ideas, practices, and allegiances in the colonial
9 period, the growth of religious toleration, and free exercise of religions.” *Id.*

10 107. Standard 5.5.1 states: “Understand how political, religious, and economic ideas
11 and interests brought about the Revolution. . . .” *Id.*

12 108. Standard 5.7.6 states: “Know the songs that express American ideals (e.g.,
13 ‘America the Beautiful,’ ‘The Star Spangled Banner’).”

14 109. The Framework contains a list of “analysis skills” in conjunction with the content
15 standards. Ex. A at 75.

16 110. The analysis skills under “Research, Evidence, and Point of View” require that:
17 1. Students differentiate between primary and secondary sources.
18 2. Students pose relevant questions about events they encounter in historical
19 documents, eyewitness accounts, oral histories, letters, diaries, artifacts,
20 photographs, maps, artworks, and architectures.
21 3. Students distinguish fact from fiction by comparing documentary sources
22 on historical figures and events with fictionalized characters and events.

23 *Id.*

24 111. On their face, the California History-Social Science Content Standards require,
25 *inter alia*, teaching about religion’s influence on society and the founding of this country.

26 112. Appendix C of the Framework discusses teaching about religion in public schools.
27 *Id.* at 203.

28 113. Appendix F of the Framework discusses the importance of and encourages the use
of primary source documents. *Id.* at 214.

1 **Cupertino Union School District Content Standards**

2 114. The District has promulgated content standards for fifth grade curriculum taught
3 in District schools.

4 115. Standard 4 under “United States History and Geography: Making a New Nation”
5 requires that: “Students understand the political, religious, social, and economic institutions that
6 evolved in the colonial era.”

7 116. On their face, the District’s content standards require, *inter alia*, that students
8 receive objective instruction about religion.

9 **VI.**

10 **STATEMENTS OF LAW**

11 117. Each and all of the acts alleged herein were done by Defendants under the color
12 and pretense of state law, statutes, ordinances, regulations, customs, usages, and policies of
13 Cupertino Union School District, Santa Clara County, and the State of California.

14 118. Teachers do not shed their constitutional rights at the schoolhouse gate. *Tinker v.*
15 *Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969).

16 119. Teachers have academic freedom rights within the reasonable limits of the state’s
17 education content standards.

18 120. Defendants have a duty to set education policies and local content standards in
19 accordance with the state’s education content standards.

20 121. Defendants’ policy and/or practice restricts Christian teachers such as Mr.
21 Williams from handing out any documents containing religious references.

22 122. By their policy and/or practice of restricting Christian teachers from distributing
23 any handouts containing religious references, Defendants have failed to meet their duty.

24 123. Unless and until the enforcement of the Defendants’ religiously discriminatory
25 policy and/or practice is enjoined, the Plaintiff will suffer and continue to suffer irreparable harm
26 to his federal constitutional rights.

1 **VII.**

2 **FIRST CAUSE OF ACTION - VIOLATION OF THE EQUAL PROTECTION CLAUSE**
3 **UNDER THE UNITED STATES CONSTITUTION**

4 124. The allegations contained in all preceding paragraphs are incorporated herein by
5 reference.

6 125. The Equal Protection Clause requires that the government treat similarly-situated
7 persons equally.

8 126. The Defendants allowed similarly-situated teachers to include religious
9 expression in their lessons and supplemental handouts.

10 127. The Defendants do not require similarly-situated teachers to submit their lesson
11 plans and supplemental handouts in advance.

12 128. The Defendants do not limit similarly-situated teachers' choices of supplemental
13 handouts as they have limited Mr. Williams' choices.

14 129. The Defendants have treated Mr. Williams differently based on the exercise of his
15 fundamental right to free speech and because he is a Christian.

16 130. Defendants have no compelling interest to justify their unequal treatment of Mr.
17 Williams.

18 131. The Defendants' policy and/or practice therefore violates the Equal Protection
19 Clause of the Fourteenth Amendment to the United States Constitution.

20 WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth
21 hereinafter in the prayer for relief.

22 **VIII.**

23 **SECOND CAUSE OF ACTION - VIOLATION OF THE RIGHT TO FREEDOM OF**
24 **SPEECH UNDER THE UNITED STATES CONSTITUTION**

25 132. The allegations contained in all preceding paragraphs are incorporated herein by
26 reference.

27 133. Speech about religion is protected by the First and Fourteenth Amendments to the
28 United States Constitution.

1 134. Speech about religion is necessary to fulfill the state teaching standards.

2 135. Defendants have excluded Mr. Williams' speech because of its religious content
3 and viewpoint.

4 136. By this exclusion, Defendants have, *inter alia*, limited Mr. Williams' academic
5 freedom – his ability to speak and teach freely in accordance with the state educational standards.

6 137. The Defendants have no compelling government interest to justify their
7 discriminatory treatment of the Plaintiff.

8 138. The Defendants' actions therefore violate the Free Speech Clause of the First
9 Amendment to the United States Constitution as incorporated and applied to the states under the
10 Fourteenth Amendment.

11 WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth
12 hereinafter in the prayer for relief.

13 **IX.**

14 **THIRD CAUSE OF ACTION – VAGUENESS**

15 139. The allegations contained in all preceding paragraphs are incorporated herein by
16 reference.

17 140. Defendants' policy and/or practice restricts Christian teachers from handing out
18 documents containing religious references.

19 141. Defendants' policy and practice do not give adequate notice as to what conduct is
20 prohibited.

21 142. Defendants' policy and practice vest unfettered discretion in school officials to
22 control teacher speech based on its content and viewpoint and the religious views of the teacher.

23 143. Defendants' policy and practice contradict state law.

24 144. Defendants have no compelling interest to justify their policy and practice.

25 145. Defendants' policy and practice are therefore void for vagueness in violation of
26 the First and Fourteenth Amendments to the United States Constitution.

27 WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth
28 hereinafter in the prayer for relief.

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X.

**FOURTH CAUSE OF ACTION - VIOLATION OF THE ESTABLISHMENT CLAUSE
UNDER THE UNITED STATES CONSTITUTION**

146. The allegations contained in all preceding paragraphs are incorporated herein by reference.

147. The Defendants' policy and practice excludes Mr. Williams' religious expression.

148. The Defendants' policy requires that school officials systematically and regularly scrutinize historical documents and teachers' religious view to determine whether the officials consider the documents to have religious content that the officials consider impermissible within their school if distributed by religious teachers.

149. The Defendants' policy demonstrates impermissible hostility towards religion.

150. Defendants have no compelling interest that would justify their hostility towards religion.

151. The Defendants' policy therefore violates the Establishment Clause of the First Amendment to the United States Constitution as incorporated and applied to the states under the Fourteenth Amendment.

WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth hereinafter in the prayer for relief.

XI.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief:

A. That this Court preserve the pre-litigation status quo by preliminarily enjoining the Defendants from ceasing their policy and/or practice of allowing teachers to distribute curriculum-related supplemental handouts;

B. That this Court preliminarily and permanently enjoin the Defendants from enforcing their policy and/or practice of suppressing Christian teachers' use of lessons and curriculum-related supplements on the basis that they contain religious content or references;

1 C. That this Court enter declaratory judgment stating that the Defendants' policy and/or
2 practice is facially unconstitutional and violates the Plaintiff's rights as guaranteed under the
3 First and Fourteenth Amendments to the United States Constitution;

4 D. If the policy and/or practice is not declared facially unconstitutional, that this Court
5 enter a declaratory judgment stating that the policy and/or practice is unconstitutional as applied
6 to the Plaintiff and violates the Plaintiff's rights guaranteed under the First and Fourteenth
7 Amendments to the United States Constitution;

8 E. That this Court award Plaintiff his costs and expenses of this action, including
9 reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988, and other applicable law;

10 F. That this Court grant such other and further relief as the Court deems equitable, just,
11 and proper;

12 G. That this Court adjudge, decree and declare the rights and other legal relations of the
13 parties to the subject matter here in controversy, in order that such declarations shall have the
14 force and effect of final judgment; and

15 H. That this Court retain jurisdiction of this matter as necessary to enforce the Court's
16 orders.

17 Respectfully submitted on this, the 3rd day of January, 2005,

18 Attorney for Plaintiff,

19
20 By: /s/Kevin H. Theriot

21 **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

22 Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the
23 named parties, there is no such interest to report.

24 Respectfully submitted on this, the 3rd day of January, 2005.

25
26 By: /s/Kevin H. Theriot

27 //

1 **VERIFICATION**

2 I, Stephen J. Williams, a citizen of the United States and a resident of the State of
3 California, have read the foregoing Amended Verified Complaint for Declaratory and Injunctive
4 Relief and declare under the penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct.

6 Dated this 3rd day of January, 2005

7
8
9 By: /s/ Stephen J. Williams

10
11 **SIGNATURE ATTESTATION**

12 Pursuant to the rules and procedures governing electronic filing, I, the undersigned
13 attorney for Plaintiff Stephen J. Williams, attest that the content of this document is acceptable to
14 signatory Stephen J. Williams.

15 Dated this 3rd day of January, 2005

16
17 By: /s/ Kevin H. Theriot