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Clerk of the Superior Court
By Sophia Felix, Deputy Clerk

11 Attorneys for Plaintiff, JANE DOE, a minor by and through
12 her parent and guardian ad litem JOHN DOE

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **COUNTY OF SAN DIEGO**

15 JANE DOE, a minor, by and through her parent
16 and Guardian ad Litem, JOHN DOE, an
17 individual,

18 Plaintiff,

19 vs.

20 POWAY UNIFIED SCHOOL DISTRICT, a
21 California public entity; DEL NORTE HIGH
22 SCHOOL, a California public entity; MARIAN
23 PHELPS, an individual; JAMES DAYOFF, an
24 individual; DAVE LEMASTER, an individual;
25 MIKE GIAIMI, an individual; MICHELLE
26 O'CONNOR-RATCLIFF, an individual,
27 DARSHANA PATEL, an individual, HEATHER
28 PLOTZKE, an individual, CINDY SYTSMA, an
individual, GINGER COUVRETTE, an
individual, and DOES 1 through 100, inclusive,

Defendants.

Case No. 37-2023-00051160-CU-CR-CTL

COMPLAINT

1. Violation of First Amendment, as applied to the states under the Fourteenth Amendment; 42 U.S.C. §1983
2. Violation of Article I, Section 2(a) of California State Constitution; 42 U.S.C. §1983
3. Violation of Section 48950 of California Education Code
4. Violation of Section 48907 of California Education Code
5. Violation of the Fourteenth Amendment; 42 U.S.C. §1983
6. Violation of the Equal Protection Clause of the California Constitution; 42 U.S.C. §1983
7. Violation of Article IX of the California Constitution; 42 U.S.C. §1983
8. Intentional Infliction of Emotional Distress; Harassment; Retaliation
9. Negligent Infliction of Emotional Distress; Harassment; Retaliation
10. Violation of Education Code and PUSD Policies
11. Negligence: Failure to Train, Supervise, and Discipline Employees
12. Negligence: Failure to Supervise and Prevent Foreseeable Harm to Students

DEMAND FOR JURY TRIAL

1 Plaintiff, a minor, by and through her parent and proposed guardian ad litem JOHN DOE
2 (“Plaintiff”), initiates this legal action for injuries and damages against Defendants POWAY
3 UNIFIED SCHOOL DISTRICT; DEL NORTE HIGH SCHOOL; MARIAN PHELPS; JAMES
4 DAYHOFF; DAVE LEMASTER; MIKE GIAIMI; MICHELLE O’CONNOR-RATCLIFF,
5 DARSHANA PATEL, HEATHER PLOTZKE, CINDY SYTSMA, GINGER COUVRETTE, and
6 DOES 1–100, inclusive, (“Defendants”) as a result of the injuries and damages that Plaintiff
7 sustained. This lawsuit is brought to address and seek damages for violations of Plaintiff’s state,
8 federal and constitutional, statutory, and common law rights, committed by Defendants, as follows:

9 **I. JURISDICTION AND VENUE.**

10 1. The subject matter of this action is set forth in this Complaint.

11 2. This court has personal jurisdiction over Defendants POWAY UNIFIED SCHOOL
12 DISTRICT and DEL NORTE HIGH SCHOOL because it is a public entity funded by state and
13 federal funds, providing public education services in the State of California in San Diego County.

14 3. This court has personal jurisdiction over each individual Defendant because each
15 resides and works in the State of California in San Diego County.

16 4. Venue is proper since Defendant is a public entity based in the County of San Diego
17 and the events giving rise to this claim occurred in the County of San Diego.

18 5. Plaintiff’s claims are timely as prescribed by California Government Code §910, et
19 seq. as they are filed within 6 months of Defendants rejection of their submitted tort claims or are
20 otherwise excepted or exempted from compliance.

21 **II. PARTIES.**

22 6. All facts and allegations presented in this Complaint occurred during the relevant
23 times pertaining to the claims asserted, unless specified otherwise.

24 7. Plaintiff is a minor residing in San Diego County. Plaintiff is referred to under the
25 pseudonym “Plaintiff” or “JANE DOE.” This measure is taken to safeguard her legitimate privacy
26 interests, and to mitigate concerns of potential retaliation and retribution. This precaution is
27 particularly pertinent due to the sensitive and personal nature of the harm and emotional distress
28 that the Plaintiff has endured. See, *Doe v. Lincoln Unified School Dist.* (2010) 188 Cal.App.4th 758,

1 766).

2 8. JOHN DOE is Plaintiff’s father. He files this action on Plaintiff’s behalf as
3 Plaintiff’s guardian ad litem. Plaintiff’s father is referred to under the pseudonym “JOHN DOE.”
4 This measure is taken to safeguard his legitimate privacy interests, and to mitigate concerns of
5 potential retaliation and retribution. This precaution is particularly pertinent due to the sensitive and
6 personal nature of the harm and emotional distress that his daughter, and family, has endured. See,
7 *Doe v. Lincoln Unified School Dist.* (2010) 188 Cal.App.4th 758, 766).

8 9. Due to confidentiality concerns, JANE DOE and JOHN DOE’s identities will be
9 disclosed to Defendants simultaneous to the service of this Complaint, but on a separate document
10 that should not be made a part of the public file.

11 10. Defendant POWAY UNIFIED SCHOOL DISTRICT (“PUSD”) is a public entity
12 located at 15250 Avenue of Science, San Diego, California. It receives state and/or federal funding.
13 It is a public and government entity duly incorporated and operating as a school district in the
14 County of San Diego, State of California, and under the laws of the State of California, with the
15 capacity to be sued. PUSD is a “State” as defined by the California Constitution, Article 1, Section
16 31, subdivision (f). PUSD is the legal entity responsible for provision of educational services to
17 students residing within their jurisdiction. PUSD is sued on the basis of the acts and omissions of
18 its officials, agents, employees, independent contractors, and/or DOES 1-100.

19 11. Defendant DEL NORTE HIGH SCHOOL is a high school located at 16601
20 Nighthawk Lane, San Diego, California. It is within the jurisdiction of PUSD, and under its
21 direction and control.

22 12. Plaintiff is and was enrolled as a student at DEL NORTE HIGH SCHOOL.

23 13. Defendant MARIAN PHELPS is and was the superintendent at PUSD, acting as an
24 employee and agent of PUSD, and acting or purporting to act in her official capacity as such. She is
25 vested with the authority to discipline students within the school district at her discretion, and to
26 enforce the policies of the district.

27 14. Defendant JAMES DAYHOFF is and was the Director of Discipline at PUSD,
28 acting as an employee and agent of PUSD, and acting or purporting to act in his official capacity as

1 such. He is vested with the authority to discipline students within the school district at his
2 discretion, and to enforce the policies of the district.

3 15. Defendant DAVE LEMASTER is and was the Executive Director II, Secondary of
4 Learning Support Services at PUSD, acting as an employee and agent of PUSD, and acting or
5 purporting to act in his official capacity as such. He is vested with the authority to discipline
6 students within the school district at his discretion, and to enforce the policies of the district.

7 16. Defendant BRYAN SCHULTZ is and was the Principal at DEL NORTE HIGH
8 SCHOOL during the 2022-2023 school year, acting as an employee and agent of PUSD, and acting
9 or purporting to act in his official capacity as such. He is vested with the authority to discipline
10 students within the school district at his discretion, and to enforce the policies of the district.

11 17. Defendant MIKE GIAIMI is and was the Assistant Principal at DEL NORTE HIGH
12 SCHOOL, acting as an employee and agent of PUSD, and acting or purporting to act in his official
13 capacity as such. He is vested with the authority to discipline students within the school district at
14 his discretion, and to enforce the policies of the district.

15 18. Defendant MICHELLE O’CONNOR-RATCLIFF is and was the Vice-President of
16 the PUSD Board of Education who has ultimate oversight and control of the other Defendants and
17 the district.

18 19. Defendant DARSHANA PATEL is and was the President of the PUSD Board of
19 Education who has ultimate oversight and control of the other Defendants and the district.

20 20. Defendant HEATHER PLOTZKE is and was a member of the PUSD Board of
21 Education who has ultimate oversight and control of the other Defendants and the district.

22 21. Defendant CINDY SYTSMA is and was the Clerk of the PUSD Board of Education
23 who has ultimate oversight and control of the other Defendants and the district.

24 22. Defendant GINGER COUVRETTE is and was a member of the PUSD Board of
25 Education who has ultimate oversight and control of the other Defendants and the district.

26 23. PUSD and its employees, trustees, and agents, including without limitation
27 Defendants MARIAN PHELPS, JAMES DAYHOFF, DAVE LEMASTER, BRYAN SCHULTZ,
28 MIKE GIAIMI, MICHELLE O’CONNOR-RATCLIFF, DARSHANA PATEL, HEATHER

1 PLOTZKE, CINDY SYTSMA, and GINGER COUVRETTE were acting in their individual and
2 official capacities and under the color of law of the state of California.

3 24. California Government Code §815.2(a) provides a statutory basis for the causes of
4 action sounding in tort or otherwise asserted against PUSD and DEL NORTE HIGH SCHOOL.
5 Government Code §815.2(a) states, “[a] public entity is liable for injury proximately caused by an
6 act or omission of an employee of the public entity within the scope of his employment if the act or
7 omission would, apart from this section, have given rise to a cause of action against that employee .
8 . . .” See also, *C.A., a minor v. Williams S. Hart Union High School District* 53 Cal.4th 861.

9 25. The true names and capacities, whether individual, corporate, associate or otherwise,
10 of Defendants and Does 1 through 100, inclusive, are unknown to Plaintiff, who therefore sues
11 them by such fictitious names. Plaintiff is informed and believes, and thereon alleges, that each of
12 the Defendants fictitiously named as a Doe is legally responsible in some manner for the events and
13 happenings referred to in this Complaint, and proximately caused the injuries and damages to
14 Plaintiff. Plaintiff will seek leave of court to amend this Complaint to set forth the true names and
15 capacities of the fictitiously named Defendants when they have been ascertained.

16 26. Plaintiff is informed and believes that at all times mentioned in this Complaint,
17 Defendants, and each of them, including Does 1 through 100, inclusive, were the agents, servants,
18 employees, and/or joint venturers of each co-defendant and were, as such, acting within the course,
19 scope and authority of the agency, employment, or joint venture, and that each, when acting as a
20 principal, was negligent in the selection and hiring of each and every other Defendant as an agent,
21 employee and/or joint venturer.

22 **III. FACTS AND GENERAL ALLEGATIONS.**

23 27. Plaintiff was a member of the DEL NORTE HIGH SCHOOL varsity softball team
24 for the 2022-2023 academic year.

25 28. During the 2022-2023 academic year, Plaintiff was a junior, with one remaining
26 year at DEL NORTE HIGH SCHOOL.

27 29. SUPERINTENDENT MARIAN PHELPS was, and is, heavily involved in the DEL
28 NORTE HIGH SCHOOL varsity softball team as her daughter J.P. participated on the team, and

1 directly competed with Plaintiff for the position of pitcher.

2 30. SUPERINTENDENT MARIAN PHELPS constructed a narrative falsely suggesting
3 Plaintiff bullied J.P. SUPERINTENDENT MARIAN PHELPS has repeatedly exhibited
4 inappropriate interactions with Plaintiff and other students, followed Plaintiff online, and others
5 persistently, and intimidated Plaintiff and other softball student-players. The behaviors exhibited
6 encompass gaslighting, retaliation, harassment, threats, bullying, and intimidation, all aimed at
7 inflicting emotional distress on Plaintiff, and stifling her freedom of speech and expression. These
8 inappropriate actions targeted not only Plaintiff, but also other softball student-players. We are
9 informed and believe that SUPERINTENDENT MARIAN PHELPS' aggressive behavior is rooted
10 in what she unilaterally perceives to be an intense rivalry between her daughter, J.P., and one of the
11 team's other pitchers, Plaintiff. It appears that SUPERINTENDENT MARIAN PHELPS' ultimate
12 goal is to hinder Plaintiff from competing for pitching time with her daughter or prevent her from
13 playing on the softball team altogether.

14 31. Due to SUPERINTENDENT MARIAN PHELPS unfounded and false allegations,
15 she instituted, controlled, and orchestrated an illegitimate and biased internal "investigation" that
16 resulted in Plaintiff being barred from all extracurricular activities for a significant portion of the
17 2023-2024 academic year. This effectively excluded Plaintiff from the potential to participate on
18 the DEL NORTE HIGH SCHOOL softball team during her senior year, as well as exclusion from
19 attendance at athletic events, dances, field trips, student clubs, activities, and graduation.

20 32. On July 16, 2023, Defendant JAMES DAYHOFF sent an email to Plaintiff's parents
21 containing a document labeled "Other Means of Correction Contract (Alternative to Removal from
22 Extracurricular Activities)" ("OMCC"). We are informed and believe SUPERINTENDENT
23 MARIAN PHELPS drafted or directed and participated in the drafting and content of the OMCC.
24 The parents were threatened that if they did not sign this document within 16 hours and 30 minutes,
25 Plaintiff might be deemed ineligible for extracurricular activities. The OMCC mandated signatures
26 from both Plaintiff and her parents, requiring them to admit to and acknowledge acts she did not
27 commit. This version of the OMCC was one that was slightly revised from an earlier version
28 presented on July 3, 2023 by DEL NORTE HIGH SCHOOL Principal Ty Eveleth. The OMCC

1 violates the legal and constitutional rights of Plaintiff and her parents. It attempts to preemptively
2 restrict Plaintiff's right to free speech and attempts to force both Plaintiff and her parents into a
3 specific narrative, infringing on the doctrine against compelled speech. Furthermore, it hinders
4 Plaintiff's lawful right to public participation. Plaintiff is informed and believes that the OMCC,
5 either directly or indirectly, is a product of SUPERINTENDENT MARIAN PHELPS's ongoing
6 campaign to harass, intimidate, threaten, bully, and manipulate her. Notably, Defendant JAMES
7 DAYHOFF told Plaintiff's parents "we have no jurisdiction over the seniors as they graduated. We
8 do have jurisdiction over [Plaintiff] and can punish her."

9 33. On July 23, 2023, Plaintiff's attorney sent email correspondence to PUSD,
10 announcing his representation and highlighting concerns about potential discrimination,
11 misconduct, breaches, and conflicts of interest infecting the purported "investigation." The letter
12 also extended an invitation for a future meeting to delve deeper into these issues. Additionally, this
13 letter acted as Plaintiff's request for public records and a directive to preserve evidence. PUSD was
14 informed that an administrative Complaint would soon be filed. This communication was directed
15 to PUSD employees and agents, Defendant DAVID LEMASTER, and Defendant JAMES
16 DAYHOFF. A true and correct copy of the July 23, 2023 correspondence to PUSD, redacted, is
17 attached as Exhibit 1.

18 34. Instead of directly addressing the letter from Plaintiff's attorney dated July 23, 2023,
19 PUSD chose to have their attorney respond, which he did on August 8, 2023. PUSD's reply, in
20 diplomatic terms, seemed to sidestep the core issues and concerns highlighted in Plaintiff's initial
21 communication. On behalf of PUSD, the attorney doubles down on Defendant JAMES
22 DAYHOFF's earlier demands that Plaintiff and her parents sign the unconstitutional OMCC. A
23 true and correct copy of the August 8, 2023 response from PUSD, redacted, is attached as Exhibit
24 2. Initially, PUSD appears to do damage control and downplay the situation, disingenuously
25 suggesting that Plaintiff isn't facing disciplinary action and that no suspension was even
26 "threatened" or "contemplated." They misrepresent the situation as merely revoking a discretionary
27 "privilege", which in reality, denies Plaintiff the chance to engage in all extracurricular activities,
28 including her cherished aspiration of playing softball in her senior year. PUSD seems to imply that

1 there's no need for an appeal process since, in their view, no formal disciplinary action was being
2 taken against Plaintiff. Furthermore, PUSD posits that even if there were disciplinary measures,
3 they wouldn't be obligated to prove any misconduct nor involve Plaintiff's parents before
4 implementing a suspension. PUSD's reply falls short and fails to acknowledge the serious concerns
5 at hand and irreparable harm this fabricated situation has caused to Plaintiff and her family.

6 35. Plaintiff challenged the findings of the initial investigation directly to the PUSD
7 Board of Education, detailed her complaints against Defendants, and requested a completely
8 impartial third-party to undertake a fresh review. Plaintiff submitted 26 witness statements to
9 PUSD and its individual trustees, Defendants MICHELLE O'CONNOR-RATCLIFF,
10 DARSHANA PATEL, HEATHER PLOTZKE, CINDY SYTSMA, and GINGER COUVRETTE.
11 Because there was now a complaint pending against the PUSD Superintendent and Defendants
12 under her influence and control, the individual trustees were now responsible for investigating and
13 taking action on Plaintiff's complaint. The witness statements clearly and reliably refute the
14 veracity of the summaries appearing in the investigative reports, prepared by PUSD administrators.
15 We are informed and believe SUPERINTENDENT MARIAN PHELPS exerted influence,
16 pressure, and control over her subordinates to handle and steer the "investigation" to guarantee her
17 desired outcome of a finding against Plaintiff. We are informed and believe SUPERINTENDENT
18 MARIAN PHELPS instituted, controlled, and orchestrated the "investigation" and its outcome,
19 including the contents of the OMCC. Given the notable conflicts of interest, bias, influence,
20 pressure, control, and procedural and factual discrepancies in the initial "investigation," it was
21 crucial that an independent third-party investigator who is free from any potential influence,
22 intimidation, or guidance from SUPERINTENDENT MARIAN PHELPS, or anyone aligned with
23 or under her sphere of influence, pressure, control or intimidation, be assigned to conduct the
24 investigation. Defendants ignored Plaintiff's requests for this due process and procedural fairness.

25 36. Plaintiff was not allowed to participate in extracurricular activities from July 3, 2023
26 to September 15, 2023, when she eventually signed the OMCC under duress and against her free
27 will. The only reason she signed the OMCC was because she was emotionally distraught beyond
28 tolerable levels. She was not allowed to participate in any school events including but not

1 necessarily limited to, football games, field hockey games, and school sponsored club events such
2 as Best Buddies and Students Transforming Through Christ. This was devastating to Plaintiff at the
3 start of her precious senior year in high school. No student should ever be forced to suffer in this
4 way at the hands of an administrator or teacher. What Plaintiff has gone through is unimaginable.

5 37. We are informed and believe SUPERINTENDENT MARIAN PHELPS is
6 manipulating the dubious investigation and its "investigators" as instruments in her campaign to
7 harass, bully, threaten, and intimidate Plaintiff and other students.

8 38. We are informed and believe the other Defendants are acting in conspiracy,
9 coordination, and concert with SUPERINTENDENT MARIAN PHELPS with respect to her
10 relentless pursuit of Plaintiff.

11 **Plaintiff and J.P. History**

12 39. Both Plaintiff and J.P. serve as pitchers for the DEL NORTE HIGH SCHOOL
13 varsity softball team, along with other pitchers competing for the prime spot in the circle and
14 valuable playing time on the field.

15 40. Their relationship, for the most part, has been amicable, but J.P. has openly admitted
16 that when Plaintiff and she were freshmen, she "hated" Plaintiff. The reasons she proffered were
17 that she saw Plaintiff as direct competition for her place on the team.

18 41. Plaintiff's experience was that J.P. would blatantly try and ignore Plaintiff's
19 presence on the team during their freshmen year.

20 42. We are informed and believe SUPERINTENDENT MARIAN PHELPS has
21 undertaken the role of intimidating, bullying, threatening, and harassing Plaintiff, aiming to
22 eliminate Plaintiff as a rival for that sought-after position in the circle.

23 **Night of the Softball Banquet**

24 43. On May 30, 2023, DEL NORTE HIGH SCHOOL softball held an end of the year
25 banquet for junior varsity and varsity teams.

26 44. Parents and Players were present at the banquet and awards ceremony. There are
27 multiple eye witness accounts of the entire night, which relate to the false accusations raised by
28 SUPERINTENDENT MARIAN PHELPS against Plaintiff. There, also, is video evidence, and

1 public testimony, that is contrary to SUPERINTENDENT MARIAN PHELPS’s false accusations
2 against Plaintiff.

3 45. The banquet was a terrific celebration of all the players and an opportunity for all to
4 come together and give a final send off to the departing seniors.

5 46. J.P. was awarded the most valuable player for the DEL NORTE HIGH SCHOOL
6 varsity softball team. Not that anyone was required to do so, there was resounding support from
7 those in attendance who cheered and/or clapped for J.P. as she received her award.

8 47. Other players received applause and cheers while they accepted other awards.

9 48. SUPERINTENDENT MARIAN PHELPS and her daughter were seemingly
10 disgruntled as they felt her daughter, J.P., did not receive loud enough applause compared to other
11 players accepting awards. She apparently felt others were obligated to clap more enthusiastically
12 for her daughter. J.P. issued a written statement stating the table full of senior softball players and
13 Plaintiff “would cheer in a loud and overly exaggerated way for certain players and then not at all
14 for me.” In her statement, she accuses her teammates of feeling “jealousy” and “hate” towards her.
15 Instead of self-reflection as to why someone may not feel motivated to clap loud for her, she labels
16 those people as jealous and hateful.

17 49. SUPERINTENDENT MARIAN PHELPS independently concocted the false notion
18 that Plaintiff, being J.P.’ pitching counterpart, must have orchestrated a scheme to influence some
19 or all senior softball players to withhold applause when J.P. received her award.

20 50. The banquet ended at or around 9:00 p.m. that night. At 11:04 p.m.
21 SUPERINTENDENT MARIAN PHELPS made unsolicited contact with a senior DEL NORTE
22 HIGH SCHOOL varsity softball player, M.A. who was a minor at the time. SUPERINTENDENT
23 MARIAN PHELPS did not obtain permission from, or alert M.A.’s parents that she was contacting
24 their daughter or intended to interrogate her. SUPERINTENDENT MARIAN PHELPS first text
25 messaged M.A., and then called her. Attached are true and correct copies of screen shots of text
26 messages and call logs with SUPERINTENDENT MARIAN PHELPS and M.A., Exhibit 3. In a
27 post-call text message sent to M.A., SUPERINTENDENT MARIAN PHELPS accuses M.A. of
28 telling a different story, and reiterates earlier threats of discipline against the various softball

1 players. She states “[b]ut it is what it is and we will follow up on our end from an administration
2 standpoint.” She then sarcastically states, “thank you and have a good rest of the week.”

3 51. SUPERINTENDENT MARIAN PHELPS kept M.A. on the phone for
4 approximately thirty-two minutes and nearly until midnight. SUPERINTENDENT MARIAN
5 PHELPS, a PUSD employee, engaged in inappropriate behavior and relations with a PUSD student
6 in violation of multiple laws and PUSD employee policy. We are informed by M.A., and believe,
7 that during that call, SUPERINTENDENT MARIAN PHELPS engaged in the following
8 discussion:

9 a. SUPERINTENDENT MARIAN PHELPS employed intimidating and
10 manipulative strategies to extract “information” from M.A., clearly aimed to bolster her
11 unfounded conspiracy narrative against Plaintiff.

12 b. SUPERINTENDENT MARIAN PHELPS shifted to using disparaging and
13 derogatory language directed at Plaintiff. She expressed her belief that Plaintiff did not
14 deserve to be defensive player of the year. SUPERINTENDENT MARIAN PHELPS stated
15 she would use her “power” to prevent Plaintiff from becoming co-captain of the team
16 alongside J.P. She emphasized J.P.’ qualifications for captain and mentioned 30-40 colleges
17 are recruiting her, while suggesting that Plaintiff doesn’t have anyone recruiting her and if
18 she was asked, Plaintiff could not name one school.

19 c. SUPERINTENDENT MARIAN PHELPS made an admission against her
20 own interest regarding a previous complaint against J.P. for harassing and bullying another
21 softball player, G.B. SUPERINTENDENT MARIAN PHELPS told M.A. that she asserted
22 her influence to have J.P.’ name removed from a complaint by G.B. that J.P. and another
23 student were bullying her.

24 d. SUPERINTENDENT MARIAN PHELPS conveyed a threat to have Plaintiff
25 transferred from DEL NORTE HIGH SCHOOL to another school for her senior year, and
26 that regardless of where Plaintiff attended school for the 2023-2024 academic year,
27 SUPERINTENDENT MARIAN PHELPS would ensure that Plaintiff had a “lonely year.”

28 e. SUPERINTENDENT MARIAN PHELPS then made threats aimed at the

1 entire senior softball group that either they admit that they orchestrated a conspiracy to not
2 clap for J.P. at the softball banquet or that SUPERINTENDENT MARIAN PHELPS would
3 ensure that none of the senior softball players would be allowed to walk at graduation.

4 52. We are informed by M.A. and believe, that out of fear of SUPERINTENDENT
5 MARIAN PHELPS's threats, during the call M.A. placated her bizarre accusations until she was
6 finally able to get off the phone with her. M.A. did not admit to or ever state that a conspiracy to
7 not clap for J.P. ever existed.

8 53. M.A. or her parents never consented, nor did she ever give SUPERINTENDENT
9 MARIAN PHELPS her number. SUPERINTENDENT MARIAN PHELPS obtained it from an
10 unknown third-party and on prior occasions, unilaterally began socializing with M.A. without her
11 parents' permission in violation of multiple laws and PUSD employee policies.

12 54. We are informed by M.A. and believe, that she was intimidated, shocked, and
13 scared, by SUPERINTENDENT MARIAN PHELPS.

14 **Subsequent Actions of Superintendent MARIAN PHELPS**

15 55. On May 31, 2023, the morning after SUPERINTENDENT MARIAN PHELPS
16 interrogated and intimidated M.A., SUPERINTENDENT MARIAN PHELPS had a thirty-minute
17 phone call with Plaintiff's mother. During that call, SUPERINTENDENT MARIAN PHELPS
18 engaged in the following discussion:

19 a. SUPERINTENDENT MARIAN PHELPS persistently pursued her false
20 conspiracy narrative, repeatedly probing her about the reasons for Plaintiff's purported
21 animosity towards J.P. and her alleged orchestration with the seniors to withhold applause
22 for J.P. during her award recognition at the banquet.

23 b. Leveraging her position of influence over Plaintiff, SUPERINTENDENT
24 MARIAN PHELPS employed more subtle strategies to extract information. She framed the
25 conversation as a casual "mom to mom" chat, insinuating that any concerns would be
26 settled informally between the parents of Plaintiff and J.P., rather than through official
27 PUSD channels.

28 c. SUPERINTENDENT MARIAN PHELPS asserted that the involvement of

1 coaches and administration was unnecessary. However, this claim was proven to be
2 misleading when it was revealed that, prior to this conversation, SUPERINTENDENT
3 MARIAN PHELPS had already engaged in discussions with both the head coach and the
4 DEL NORTE HIGH SCHOOL administration.

5 d. Plaintiff’s mother sought specifics regarding the allegations and any
6 evidence or facts that might substantiate SUPERINTENDENT MARIAN PHELPS'
7 conspiracy claims. Faced with this request, SUPERINTENDENT MARIAN PHELPS was
8 unable to provide the requested information and instead hinted at addressing the issue in
9 what she described as a “punitive” manner.

10 56. From May 31, 2023, through June 10, 2023, SUPERINTENDENT MARIAN
11 PHELPS began posting cryptic messages online. We are informed and believe the messages are
12 directed or referring to Plaintiff, and perhaps some of the other softball players. Attached as Exhibit
13 4 are true and correct copies of SUPERINTENDENT MARIAN PHELPS Instagram posts. On
14 multiple occasions, SUPERINTENDENT MARIAN PHELPS disseminated statements on her
15 public Instagram account that can be characterized as toxic and akin to online bullying: “Don’t
16 make excuses for horrible people. You can’t put a flower in an asshole and call it a vase[;]” “Haters
17 don’t really hate you. They hate themselves, because you’re a reflection of what they wish to be[;]”
18 and “It’s actually A Blessing When people Expose Themselves[.]” These posts were openly
19 accessible on SUPERINTENDENT MARIAN PHELPS’s Instagram profile. We are informed and
20 believe the messages are intentionally directed at, or in reference to, Plaintiff, and possibly other
21 members of the softball team.

22 57. Around June 6, 2023, SUPERINTENDENT MARIAN PHELPS approached another
23 PUSD student, M.J., inquiring if Plaintiff had masterminded a plan to withhold applause for J.P. at
24 the banquet or if she had spoken negatively about J.P. We are informed and believe M.J. refuted
25 any such actions by Plaintiff.

26 **PUSD’s “Investigation”**

27 58. Defendants represented that on June 6, 2023, an “investigation” began after
28 “anonymous” complaints were allegedly made against Plaintiff for bullying and harassing J.P.

1 However, we are informed and believe the “investigation” likely began on the night of the Banquet,
2 May 30, 2023, when SUPERINTENDENT MARIAN PHELPS text messaged, and then called and
3 interviewed M.A. as a “witness” to the alleged events. We are informed and believe
4 SUPERINTENDENT MARIAN PHELPS instituted, controlled, and orchestrated the
5 “investigation.”

6 59. On June 8, 2023, a DEL NORTE HIGH SCHOOL employee interviewed Plaintiff
7 regarding the allegations made against her.

8 60. Plaintiff sought representation during the interview and expressed a desire for her
9 parents to be in attendance.

10 61. Her request was denied, and the interrogation proceeded without her parents present.

11 62. During the questioning, Plaintiff's parents arrived and asked the lobby assistant
12 several times to be present for the remainder of the session but were denied.

13 63. The school refused to take testimony from senior softball players, even though
14 Plaintiff's parents said they need to be part of the investigation since they were at the table during
15 the banquet. The senior softball players were all too afraid to unilaterally speak up as their ability to
16 attend graduation was threatened by SUPERINTENDENT MARIAN PHELPS.

17 64. Plaintiff agreed to the employee's suggestion of attending a mediation session the
18 following day with J.P., aiming to resolve the matter without administrative intervention. It was
19 evident from the employee's demeanor and direct statements warning that the administration was
20 under significant pressure, influence, control, and held allegiances to SUPERINTENDENT
21 MARIAN PHELPS and would likely act in a biased manner on her behalf.

22 65. After the meeting, Plaintiff and Plaintiff's parents sought supportive witness
23 statements for Plaintiff as only one had been requested or reviewed by the School.

24 66. A softball player sent a group text to the entire DEL NORTE HIGH SCHOOL
25 softball team requesting witness statements in support of Plaintiff to refute SUPERINTENDENT
26 MARIAN PHELPS' false allegations. SUPERINTENDENT MARIAN PHELPS' daughter, J.P.,
27 was inadvertently included on that group chat.

28 67. After the text message was sent seeking witness statements in support of Plaintiff,

1 SUPERINTENDENT MARIAN PHELPS removed the DEL NORTE HIGH SCHOOL employee
2 conducting the initial investigation, from the investigation. She then seemingly directed the inquiry
3 exclusively through her associates, Defendant MIKE GIAIME, and Jennie Ganesan (Ms. Ganesan),
4 both assistant principals of DEL NORTE HIGH SCHOOL, and Ty Eveleth, the new principal of
5 DEL NORTE HIGH SCHOOL. Defendant MIKE GIAIME was subject to conflicts of interest and
6 bias, as his daughter is a player and pitcher in the DEL NORTE HIGH SCHOOL softball program.
7 We are informed and believe SUPERINTENDENT MARIAN PHELPS was working closely with
8 Defendant MIKE GIAIME to control and orchestrate the “investigation.”

9 68. Despite initially agreeing to mediate, J.P. and SUPERINTENDENT MARIAN
10 PHELPS abruptly changed course and refused to attend the mediation scheduled by the school for
11 June 9, 2023.

12 69. We are informed and believe that on or about June 9, 2023, the day of her
13 graduation ceremony, softball player P.K., was compelled by Defendant MIKE GIAIME to
14 participate in an inquiry session. He intimated that any reluctance to join the session might lead to
15 her being barred from participating in the graduation walk later that day.

16 70. According to P.K., they took possession of her phone and examined her private
17 discussions without her consent or her parents' awareness. The school's scrutiny of the text
18 messages revealed no evidence of a collaborative plan to withhold applause for J.P. during the
19 softball banquet.

20 71. We are informed and believe Defendant MIKE GIAIME erroneously deduced that
21 Plaintiff was a participant in this senior group chat, when in fact, she was not.

22 72. The inquiry took place just before the graduation ceremony, seemingly timed to
23 exert pressure on P.K., leveraging the looming threat of her potential exclusion from the graduation
24 walk.

25 73. We are informed and believe that next, Defendant MIKE GIAIME approached
26 M.A., who was already dressed in her cap and gown. He removed her from the ceremony staging
27 area, cornered her into a private room with no others present, and further inquired about the
28 banquet and SUPERINTENDENT MARIAN PHELPS's actions. He insinuated that she and the

1 senior softball players perhaps shouldn't have been allowed to participate in the graduation walk.
2 M.A. was scared, intimidated, and disturbed by Defendant MIKE GIAIME's actions. Significantly,
3 this encounter was omitted from the investigation report.

4 74. Following this "investigation," the employee compiled a concise report and handed
5 over the investigative responsibilities to Defendant MIKE GIAIME. The employee was leaving for
6 vacation and Plaintiff is informed and believes the employee sent her report to Defendant MIKE
7 GIAIME on or about June 9, 2023. She called Plaintiff's parents that afternoon and said she was
8 sending her report to Defendant MIKE GIAIME and there would be no surprises from her in the
9 report. The employee apologized several times and stated intimidation and harassment was not
10 being considered. We are informed by the employee that the official version of her report, is not
11 consistent with the report she submitted to Defendant MIKE GIAIME and that it was changed
12 without her knowledge, permission, or consent.

13 75. Around June 23, 2023, the DEL NORTE HIGH SCHOOL administration, Ms.
14 Ganesan, carried out phone interviews with a select group of witnesses concerning the alleged
15 bullying episode at the softball banquet.

16 76. The Defendants had access to video evidence from the banquet, clearly
17 demonstrating significant applause and support for J.P., effectively refuting any claims of a lack of
18 clapping. This evidence of widespread support starkly contrasts with allegations to the contrary.
19 Interestingly, the same video footage also shows J.P. herself choosing not to clap for two of her
20 teammates as they received their awards, further underscoring the inconsistency in the narrative
21 presented by the Defendants and highlighting a classic example of gaslighting.

22 **Superintendent MARIAN PHELPS Stalking of Plaintiff**

23 77. Between June 28, 2023, and July 2, 2023, SUPERINTENDENT MARIAN PHELPS
24 began following Plaintiff online.

25 78. J.P. and Plaintiff are members of separate private softball travel teams.
26 SUPERINTENDENT MARIAN PHELPS began tracking Plaintiff's team through an online
27 platform named 'Game Changer,' which offers details about its players. Plaintiff felt uneasy and
28 intruded upon by Superintendent MARIAN PHELPS' actions, perceiving them as an undue interest

1 in her personal life and softball career.

2 79. Without Plaintiff's knowledge, SUPERINTENDENT MARIAN PHELPS had been
3 following her softball team on both Instagram and Twitter. As a result, SUPERINTENDENT
4 MARIAN PHELPS was blocked, to protect Plaintiff's privacy. Such behavior from a school
5 official towards Plaintiff was inappropriate, causing Plaintiff to be concerned for her safety and feel
6 intimidated, bullied, and harassed. It felt like cyberstalking. Attached as Exhibit 5 are true and
7 correct copies, redacted, of screenshots of this social media account activity.

8 **Results of the "Investigation"**

9 80. On July 3, 2023, Plaintiff and her parents met with DEL NORTE HIGH SCHOOL
10 principal Ty Eveleth, and assistant principal Jennie Ganesan and discussed the results of the
11 "investigation."

12 81. Ty Eveleth stated that Plaintiff's behavior did not constitute bullying but he claimed
13 her actions may have been "borderline" bullying.

14 82. The definition of bullying, BP 5131.2 (a) states "no individual or group shall,
15 through physical, written, verbal, visual, or other means, harass, sexually harass, threaten,
16 intimidate, cyberbully, cause bodily injury to, or commit hate violence against any student or
17 school personnel, or retaliate against them for filing a complaint or participating in the complaint
18 resolution process."

19 83. Ty Eveleth was unable to specify which of Plaintiff's actions fit the provided
20 definition of bullying. He then pivoted to a theory that Plaintiff's actions might be described as
21 "othering," which is not a recognized component of the bullying definition.

22 84. Based on the "finding" that Plaintiff may have "borderline" bullied J.P., Ty Eveleth
23 presented Plaintiff with the Other Means of Correction Contract ("OMCC").

24 85. Ty Eveleth stated that either Plaintiff agree to the terms of the contract by July 7,
25 2023, or she would not be able to play softball for the 2023-2024 academic year.

26 86. The OMCC specifically stated that Plaintiff admit she bullied J.P. – which Plaintiff
27 vehemently denies. Such an admission would be akin to a false and coerced confession.

28 87. Since the OMCC was offered, multiple PUSD employees have requested, and

1 strongly suggested, that Plaintiff “admit” that she bullied J.P., so “she could move on.” Plaintiff
2 was not willing to give a false or coerced confession.

3 88. We are informed and believe that Ty Eveleth inherited the ongoing “investigation”
4 from Del Norte High School’s prior principal, Defendant Bryan Schultz, and was directed to follow
5 the protocol put in place by SUPERINTENDENT MARIAN PHELPS.

6 89. Plaintiff filed an appeal regarding the investigation. Ty Eveleth did not provide the
7 details of the appeal process during the meeting but on July 5, 2023, he did outline the procedures
8 and process of filing such an appeal with the link to the appeal paperwork. Ty Eveleth stated “[o]ne
9 of the topics that we did not fully discuss in our meeting Monday is the PUSD Policy for appealing
10 a suspension. I am including it below, so that you are aware of a next step available to your
11 family.” (emphasis added).

12 90. Ty Eveleth’s statement on July 5, 2023 regarding the PUSD Policy “for appealing a
13 suspension” is direct evidence that PUSD’s subsequent statement issued on August 8, 2023 through
14 its attorney, that “[a] suspension of [Plaintiff] was never threatened, announced, or
15 contemplated[.]” is inaccurate and misleading.

16 91. On August 15, 2023, the first week of school at DEL NORTE HIGH SCHOOL, Ty
17 Eveleth confirmed via email that: “this correspondence constitutes official notice that [Plaintiff] is
18 precluded from the privilege of participating in extracurricular activities for the 2023-2024 school
19 year.” Attached as Exhibit 6 is a true and correct copy, redacted, of the email.

20 92. We are informed and believe, Ty Eveleth and the DEL NORTE HIGH SCHOOL
21 employee who handled the first part of the “investigation” were under significant and undue
22 influence, pressure, and control by SUPERINTENDENT MARIAN PHELPS, to initiate,
23 perpetuate, and conclude an “investigation” with the outcome of ultimate findings against Plaintiff,
24 resulting in a “confession” or revocation of her extracurricular activities, including but not limited
25 to terminating her ability to play and compete with her daughter, J.P., on the DEL NORTE HIGH
26 SCHOOL varsity softball team for their senior year.

27 **Board of Trustees Failure to Act**

28 93. On August 17, 2023 Plaintiff, through her attorney, submitted a 135 page complaint

1 to the PUSD Board of Trustees, detailing the facts and circumstances surrounding
2 SUPERINTENDENT MARIAN PHELP’S inappropriate and harassing behavior directed at
3 Plaintiff and her teammates. Included was video evidence of the activities at the banquet, including
4 video showing enthusiastic clapping and support for J.P. while she received her award, and
5 conversely, video of SUPERINTENDENT MARIAN PHELPS daughter J.P., NOT clapping for
6 her teammates. Attached as Exhibit 7 is a true and correct copy of the cover letter, redacted,
7 submitting that claim.

8 94. In response to discussions with PUSD’s attorney, on September 1, 2023 Plaintiff
9 submitted an additional claim.

10 95. In total, PUSD and each one of its Trustee’s were provided with the pertinent facts,
11 law, video evidence, and 26 witness statements vindicating Plaintiff and establishing the
12 accusations and ensuing “investigation” against her as demonstrably false, in violation of state and
13 federal law, and in violation of her constitutional rights.

14 96. On October 9, 2023 the PUSD sent notice that Plaintiff’s claim was “REJECTED.”
15 Attached as Exhibit 8 is a true and correct copy of PUSD’s Notice of Rejection, redacted.

16 97. On November 15, 2023 the PUSD Board of Trustees held a special meeting
17 regarding the claims against SUPERINTENDENT MARIAN PHELPS. They issued a public
18 statement of “no action” to report being taken against SUPERINTENDENT MARIAN PHELPS.
19 Defendant DARSHANA PATEL went on to publicly state they could not publicly discuss the
20 matter, yet she then publicly discussed the matter, stating “some members of the public are making
21 misinformed claims about student and employee conduct involving the Del Norte High School
22 softball program.” The Board of Trustees public comments citing to “making misinformed claims”
23 lend to the perception that the Trustees are acting as advocates for SUPERINTENDNET MARIAN
24 PHELPS, rather than independent elected officials.

25 98. We are informed and believe that after the November 15, 2023 special board
26 meeting, SUPERINTENDENT MARIAN PHELPS emailed a letter to PUSD employees claiming
27 that she is the “target for political or other motivations.” She further claims that “a small group of
28 people made allegations that I had threatened students and abused my power following a softball

1 banquet . . . I was shocked by the accusations. The commenters made multiple statements that were
2 false yet damaging as they were being spread online . . . as the Superintendent of PUSD, I want to
3 assure you that the allegations are untrue . . . [n]ever at any time have I made threats towards any
4 student nor tried to prevent them from graduating . . . [n]ever at any time did I leverage my position
5 as Superintendent to interfere with the school’s investigation nor did I ask the school to initiate
6 one.”

7 99. On November 15, 2023 SUPERINTENDENT MARIAN PHELPS gave a public
8 news interview where she stated, inter alia, “[this] had nothing to do with the clapping”, “[I] never
9 threatened any student”, “[I] never talked to any student about making threats about them not
10 graduating”, and “[the] accusations are completely false and fabricated.”

11 **IV. CAUSES OF ACTION.**

12 **FIRST CAUSE OF ACTION**

13 **Violation of First Amendment, as applied to the states under the**

14 **Fourteenth Amendment; 42 U.S.C. §1983**

15 **(Against All Defendants)**

16 100. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

17 101. Defendants have deprived and continue to deprive Plaintiff of the rights secured to
18 her by the United States Constitution.

19 102. By investigating, harassing, intimidating, threatening, bullying, retaliating,
20 disciplining and/or revoking extracurricular privileges, including Plaintiff’s ability to be on the Del
21 Norte High School softball team for the 2023-2024 academic year, for an alleged incident of
22 exercising her free speech, or exercising her right to not speak Defendants have violated, and are
23 continuing to violate, Plaintiff’s right to free speech and expression, and in particular, her right
24 against compelled speech, as guaranteed by the First Amendment and the Fourteenth Amendment
25 to the U.S. Constitution.

26 103. By requiring Plaintiff to sign and agree to the terms stated in the OMCC as a
27 condition for her to engage in extracurricular privileges, including Plaintiff’s ability to be on the
28 Del Norte High School softball team for the 2023-2024 academic year, Defendants have violated,

1 and are continuing to violate, Plaintiff’s right to free speech and expression, and in particular, her
2 right against compelled speech, as guaranteed by the First Amendment and the Fourteenth
3 Amendment to the U.S. Constitution. Defendants’ actions also constitute a prior restraint on
4 Plaintiff’s right to free speech, in violation of the First Amendment and the Fourteenth Amendment
5 to the U.S. Constitution.

6 104. By taking actions designed to restrict, compel, restrain, and otherwise quash free
7 speech and freedom of expression, Defendants have violated, and are continuing to violate,
8 Plaintiff’s right to free speech and expression, and in particular, her right against compelled speech
9 and against a prior restraint on her free speech, as guaranteed by the First Amendment and the
10 Fourteenth Amendment to the U.S. Constitution.

11 105. In depriving Plaintiff of these rights, Defendants acted under color of state law.
12 This deprivation under color of state law is actionable under and may be redressed by 42 U.S.C.
13 §1983.

14 **SECOND CAUSE OF ACTION**

15 **Violation of Article I, Section 2(a) of California State Constitution; 42 U.S.C. §1983**

16 **(Against All Defendants)**

17 106. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

18 107. California Constitution, Article I, Section 2(a) states “[e]very person may freely
19 speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of
20 this right. A law may not restrain or abridge liberty of speech or press.”

21 108. Defendants have deprived and are continuing to deprive Plaintiff of the rights
22 secured to her by the California Constitution, Article I, Section 2(a).

23 109. Defendants’ conduct violates Plaintiff’s right to freedom of speech under Article I,
24 Section 2 of the California Constitution.

25 **THIRD CAUSE OF ACTION**

26 **Violation of Section 48950 of California Education Code**

27 **(Against All Defendants)**

28 110. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

1 regulations, or the substantial disruption of the orderly operation of the school.

2 118. Defendants deprived, and continue to deprive Plaintiff, of the rights secured to her
3 by the Education Code of California.

4 119. The alleged conduct of not clapping when J.P. was announced an award at the
5 softball banquet is protected expression of one’s views, opinions, and feelings. Clapping, or not
6 clapping, did not cause a disturbance. It is not vulgar or obscene. Plaintiff’s, and anyone’s display
7 of clapping, or not clapping, is fully protected by this provision.

8 120. The prior restraint on free speech imposed in the OMCC, as well as the OMCC’s
9 attempt to restrict Plaintiff’s expression of opinions, views, and comments about
10 SUPERINTENDENT MARIAN PHELPS, J.P., or anyone else, is a violation of Plaintiff’s
11 protected expression of her opinions, views, and comments. Since the OMCC imposes a prior
12 restraint on speech that has not occurred, the speech cannot cause a disturbance. It is not vulgar or
13 obscene.

14 121. The OMCC requires compelled speech by Plaintiff to staff every 2 weeks. This
15 requirement is in violation of Plaintiff’s protected right against compelled speech. This speech (or
16 lack of speech), if it happened, would not cause a disturbance. It is not vulgar or obscene.

17 122. The only disruption related to Plaintiff’s alleged not clapping, was that caused by
18 Defendants’ subsequent “investigation” and its sequelae.

19 123. The location of the softball banquet where the alleged not clapping incident took
20 place, was on private property, and not on public school grounds.

21 124. By attempting to compel Plaintiff to speak, or prevent Plaintiff from speaking,
22 Defendants violated Plaintiff’s right to freedom of expression under Education Code §48907.

23 **FIFTH CAUSE OF ACTION**

24 **Violation of the Fourteenth Amendment; 42 U.S.C. §1983**

25 **(Against All Defendants)**

26 125. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

27 126. Under the Fourteenth Amendment to the United States Constitution, Plaintiff has the
28 right to substantive due process, which includes a property interest in receiving a public education.

1 127. Defendants conduct effectively deprived Plaintiff of her right to receive a public
2 education under the Fourteenth Amendment.

3 128. By investigating, harassing, intimidating, threatening, bullying, retaliating,
4 disciplining and/or revoking extracurricular privileges, including Plaintiff’s ability to be on the Del
5 Norte High School softball team for the 2023-2024 academic year, for an alleged incident of
6 exercising her free speech, Defendants have violated Plaintiff’s right to receive a public education,
7 as guaranteed by the Fourteenth Amendment to the U.S. Constitution.

8 129. By requiring Plaintiff to sign and agree to the terms stated in the OMCC as a
9 requirement for her to engage in extracurricular privileges, including Plaintiff’s ability to be on the
10 Del Norte High School softball team for the 2023-2024 academic year, Defendants have violated,
11 and are continuing to violate, Plaintiff’s right to a public education as guaranteed by the Fourteenth
12 Amendment to the U.S. Constitution.

13 130. By taking actions designed to harass, intimidate, threaten, bully, retaliate, discipline
14 and/or revoke extracurricular privileges, Defendants have violated, and are continuing to violate,
15 Plaintiff’s right to a public education as guaranteed by the Fourteenth Amendment to the U.S.
16 Constitution.

17 131. In depriving Plaintiff of these rights, Defendants acted under color of state law.
18 This deprivation under color of state law is actionable under and may be redressed by 42 U.S.C.
19 §1983

20 **SIXTH CAUSE OF ACTION**

21 **Violation of the Equal Protection Clause of the California Constitution; 42 U.S.C. §1983**

22 **(Against All Defendants)**

23 132. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

24 133. Under the Equal Protection Clause of the California Constitution, “[a] person may
25 not be . . . denied equal protection of the laws.” (Cal. Const., art. I, § 7, subd. (a).) Further, “[a]
26 citizen or class of citizens may not be granted privileges or immunities not granted on the same
27 terms to all citizens.” (Cal. Const., Art. I, § 7, subd. (b)).

28 134. Equal protection of the laws ensures that people who are similarly situated for

1 purposes of a law are generally treated similarly by the law. This means that a government actor
2 may not adopt a rule that affects two or more similarly situated groups in an unequal manner.

3 135. “The first prerequisite to a meritorious claim under the equal protection clause is a
4 showing that the state has adopted a classification that affects two or more similarly situated groups
5 in an unequal manner. This initial inquiry is not whether persons are similarly situated for all
6 purposes, but whether they are similarly situated for purposes of the law challenged.” (*Cooley v.*
7 *Superior Court* (2002) 29 Cal.4th 228, 253, citations omitted; see also *DiMartile v. Cuomo*
8 (N.D.N.Y. 2020), No. 1:20-CV-0859 (GTS/CFH), 2020 WL 4558711, at *10 [holding pandemic
9 restrictions violated equal protection guarantees]; *Deese v. City of Lodi* (1937) 21 Cal.App.2d 631,
10 635 [holding health restrictions applicable only to certain industries violated equal protection
11 guarantees]).

12 136. The government’s exercise of police power “cannot be so used as to arbitrarily limit
13 the rights of one class of people and allow those same rights and privileges to a different class,
14 where the public welfare does not demand or justify such a classification.” (*Id.*)

15 137. Defendants’ investigating, harassing, intimidating, threatening, bullying, retaliating,
16 disciplining and/or revoking extracurricular privileges, including Plaintiff’s ability to be on the Del
17 Norte High School softball team for the 2023-2024 academic year, violate the Equal Protection
18 Clause of the California Constitution, because Defendants’ “investigation,” the OMCC
19 requirement, and treatment of Plaintiff singles her out for being the target of SUPERINTENDENT
20 MARIAN PHELP’S aim to eliminate Plaintiff as a rival for the sought-after position of pitcher on
21 the softball team, that her daughter J.P. competes with Plaintiff for. The only reason Plaintiff was
22 treated the way she was and was required to sign the OMCC in order to engage in extracurricular
23 activities, including the ability to be on the Del Norte High School softball team for the 2023-2024
24 academic year, was because SUPERINTENDENT MARIAN PHELP’S was in a position of power
25 and intimidating, and was given and wielded special treatment, privileges, access, and control.

26 138. Where a rule results in infringement of a fundamental right, such a rule is subject to
27 strict scrutiny. Education is a fundamental right under the California Constitution and at Del Norte
28 High School extracurricular activities are made available to all students. Thus, any rule that

1 deprives a person or group of equal access to education and extracurricular activities is subject to
2 strict scrutiny.

3 139. Strict scrutiny demands that the government actor establish (1) it has a compelling
4 interest that justifies the challenged rule; (2) the rule is necessary to further that interest; and (3) the
5 rule is narrowly drawn to achieve that end.

6 **SEVENTH CAUSE OF ACTION**

7 **Violation of Article IX of the California Constitution; 42 U.S.C. §1983**

8 **(Against All Defendants)**

9 140. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

10 141. Article IX, Section 1, of the California Constitution provides: “A general diffusion
11 of knowledge and intelligence being essential to the preservation of the rights and liberties of the
12 people, the Legislature shall encourage by all suitable means the promotion of intellectual,
13 scientific, moral, and agricultural improvement.”

14 142. Article IX, section 5 of the California Constitution provides: “The Legislature shall
15 provide for a system of common schools by which a free school shall be kept up and supported in
16 each district at least six months in every year . . .”

17 143. In *Butt v. California*, supra, 4 Cal.4th 680, the California Supreme Court found that
18 “California has assumed specific responsibility for a statewide public education system open on
19 equal terms to all.”

20 144. Students have constitutional right to a public education that is free from bias,
21 unequal treatment, favoritism, harassment, intimidation, threats, bullying, and foreseeable injuries
22 from school employees and administrators.

23 145. Defendants conduct effectively deprived Plaintiff of her right to receive a public
24 education under Article IX of the California Constitution.

25 146. By investigating, harassing, intimidating, threatening, bullying, retaliating,
26 disciplining and/or revoking extracurricular privileges, including Plaintiff’s ability to be on the Del
27 Norte High School softball team for the 2023-2024 academic year, for an alleged incident of
28 exercising her free speech, Defendants have violated Plaintiff’s right to receive a public education,

1 as guaranteed by Article IX of the California Constitution.

2 147. By requiring Plaintiff to sign and agree to the terms stated in the OMCC as a
3 requirement for her to engage in extracurricular privileges, including Plaintiff’s ability to be on the
4 Del Norte High School softball team for the 2023-2024 academic year, Defendants have violated,
5 and are continuing to violate, Plaintiff’s right to a public education as guaranteed by Article IX of
6 the California Constitution.

7 148. By taking actions designed to harass, intimidate, threaten, bully, retaliate, discipline
8 and/or revoke extracurricular privileges, Defendants have violated, and are continuing to violate,
9 Plaintiff’s right to a public education as guaranteed by Article IX of the California Constitution.

10 149. In depriving Plaintiff of these rights, Defendants acted under color of state law.
11 This deprivation under color of state law is actionable under and may be redressed by 42 U.S.C.
12 §1983.

13 **EIGHTH CAUSE OF ACTION**

14 **Intentional Infliction of Emotional Distress; Harassment; Retaliation**
15 **(Against All Defendants Except Not Against Board of Education Members)**

16 150. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

17 151. Defendants owe a fiduciary duty to their students, including Plaintiff, which is a
18 legal and ethical obligation of trust and responsibility. This duty arises from the inherent power
19 imbalance in the administrator/teacher-student relationship and the reliance placed on
20 administrators/teachers as educators and caretakers. Under this fiduciary duty,
21 administrators/teachers are expected to act in the best interests of their students, prioritizing their
22 educational, emotional, and physical well-being. This includes providing a safe learning
23 environment, offering fair and unbiased instruction, respecting students' rights and dignity, and
24 maintaining confidentiality where appropriate. Administrators/teachers must avoid conflicts of
25 interest, refrain from exploiting their position for personal gain, and should not engage in behavior
26 that could harm the student’s welfare or educational opportunities.

27 152. Defendants engaged in outrageous and despicable conduct, as alleged in this
28 Complaint, that was intentionally and maliciously done for the purpose of causing Plaintiff to

1 suffer severe and extreme humiliation, stress, anxiety, mental anguish, and emotional and physical
2 distress. Defendants acted with knowledge that Plaintiff’s emotional and physical distress would
3 thereby increase, and with a wanton and reckless disregard of the consequences to Plaintiff.
4 Defendants knew or should have known that Plaintiff was subject to the risk of severe emotional
5 distress. At all times alleged, Defendants were capable of knowing their acts were wrongful.
6 Defendants breached their fiduciary duty owed to Plaintiff.

7 153. As a direct and proximate result of Defendants acts, as alleged in this Complaint,
8 Plaintiff was required and did employ healthcare providers to examine, treat, and care for Plaintiff,
9 and incurred medical expenses and incidentals.

10 154. Defendants acts, as alleged in this Complaint, were grossly negligent, reckless,
11 intentional, willful, wanton, malicious, suppressive, and in conscious disregard for Plaintiff’s
12 rights, thereby warranting an award of punitive damages, except as to those Defendants who are
13 statutorily immune from punitive damages.

14 **NINTH CAUSE OF ACTION**

15 **Negligent Infliction of Emotional Distress; Harassment; Retaliation**
16 **(Against All Defendants Except Not Against Board of Education Members)**

17 155. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

18 156. Defendants owe a fiduciary duty to their students, including Plaintiff, which is a
19 legal and ethical obligation of trust and responsibility. This duty arises from the inherent power
20 imbalance in the administrator/teacher-student relationship and the reliance placed on
21 administrators/teachers as educators and caretakers. Under this fiduciary duty,
22 administrators/teachers are expected to act in the best interests of their students, prioritizing their
23 educational, emotional, and physical well-being. This includes providing a safe learning
24 environment, offering fair and unbiased instruction, respecting students' rights and dignity, and
25 maintaining confidentiality where appropriate. Administrators/teachers must avoid conflicts of
26 interest, refrain from exploiting their position for personal gain, and should not engage in behavior
27 that could harm the student’s welfare or educational opportunities.

28 157. Defendants’ conduct, as alleged in this Complaint, negligently caused Plaintiff to

1 suffer severe and extreme humiliation, stress, anxiety, mental anguish, and emotional and physical
2 distress. Defendants breached their fiduciary duty owed to Plaintiff.

3 158. Defendants negligently acted in a manner that caused Plaintiff’s emotional and
4 physical distress to increase, and with a negligent disregard of the consequences to Plaintiff.

5 159. As a direct and proximate result of Defendants’ acts, as alleged in this Complaint,
6 Plaintiff suffered severe and extreme humiliation, stress, anxiety, mental anguish, and emotional
7 and physical distress.

8 160. As a direct and proximate result of Defendants acts, as alleged in this Complaint,
9 Plaintiff was required and did employ healthcare providers to examine, treat, and care for Plaintiff,
10 and incurred medical expenses and incidentals.

11 **TENTH CAUSE OF ACTION**

12 **Violation of Education Code and PUSD Policies**

13 **(Against All Defendants)**

14 161. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

15 **Inappropriate Adult-Student Interaction**

16 162. PUSD policies 4119.24(a), 4219.24, and 4319.24, which are based in part on
17 Education Code sections 44050, 44242.5, and 48980, state in relevant part:

18 “The Governing Board desires to provide a positive school environment that
19 protects the safety and well-being of district students. The Board expects all adults with
20 whom students may interact at school or in school-related activities, including employees . .
21 . to maintain the highest professional and ethical standards in their interactions with
22 students both within and outside the educational setting. Such adults shall not engage in
23 unlawful or inappropriate interactions with students and shall avoid boundary-blurring
24 behaviors that undermine trust in the adult-student relationship and lead to the appearance
25 of impropriety.”

26 “Adults shall not intrude on a student’s physical or emotional boundaries unless
27 necessary in an emergency or to serve a legitimate purpose related to instruction,
28 counseling, student health, or student or staff safety.”

1 Any employee who observes or has knowledge of another employee’s violation of this
2 policy shall report the information to the Superintendent and Associate Superintendent of
3 Personnel Support Services or designee or appropriate agency for investigation pursuant to
4 the applicable complaint procedures. Other adults with knowledge of any violation of this
5 policy are encouraged to report the violation to the Superintendent and Associate
6 Superintendent of Personnel Support Services or designee. The Superintendent and the
7 Associate Superintendent of Personnel Support Services or designee shall protect anyone
8 who reports a violation from retaliation. Immediate intervention shall be implemented when
9 necessary to protect student safety or the integrity of the investigation.”

10 “Employees who engage in any conduct in violation of this policy, including
11 retaliation against a person who reports the violation or participates in the complaint
12 process, shall be subject to discipline, up to and including dismissal. Any other adult who
13 violates this policy may be barred from school grounds and activities in accordance with the
14 law. The Superintendent or Associate Superintendent of Personnel Support Services or
15 designee may also notify law enforcement as appropriate.”

16 “INAPPROPRIATE CONDUCT . . . (2) Being alone with a student outside of the
17 view of others . . . (4) Maintaining personal contact with a student that has no legitimate
18 educational purpose, by phone, letter, electronic communications, or other means, without
19 including the student’s parent/guardian or the principal . . . When communicating
20 electronically with students, employees shall use district equipment or technological
21 resources when available. Employees shall not communicate with students through any
22 medium that is designed to eliminate records of the communications. The Superintendent
23 and Associate Superintendent of Personnel Support services or designee may monitor
24 employee usage of district technology at any time without advance notice or consent . . .
25 (5) Creating or participating in social networking sites for communication with students,
26 other than those created by the district or for educational purposes, without the prior written
27 approval of the principal or an administrator . . . (6) Inviting or accepting requests from
28 students, or former students who are minors, to connect on personal social networking sites

1 (e.g., ‘friending’ or ‘following’ on social media), unless the site is dedicated to school
2 business . . . (7) Singling out a particular student for personal attention and friendship,
3 which could include the giving of gifts and/or the assigning of nicknames to individual
4 students . . . (8) Socializing or spending time with students outside of school-sponsored
5 events, except as participants in community activities”

6 163. By engaging in the acts alleged in this Complaint, Defendants violated the
7 protections afforded to Plaintiff and other students, as set forth in PUSD policies 4119.24(a),
8 4219.24, and 4319.24.

9 164. As a direct and proximate result of Defendants’ acts, as alleged in this Complaint,
10 Plaintiff suffered severe and extreme humiliation, stress, anxiety, mental anguish, and emotional
11 and physical distress.

12 165. A true and correct copy of PUSD policies 4119.24(a), 4219.24, and 4319.24 are
13 attached to this Complaint as Exhibit 9.

14 **Violation of Administrator/Teacher Professional Standards**

15 166. PUSD policies 4119.21(a), 4219.21, and 4319.21, which are based in part on
16 Education Code sections 200-262.4, and 44242.5, Code of Regulations section 80303, 80331-
17 80338, state in relevant part:

18 “Inappropriate employee conduct includes, but is not limited to . . . (2) Engaging in
19 harassing or discriminatory behavior towards students, parents/guardians, staff, or
20 community members, or failing or refusing to intervene when an act of discrimination,
21 harassment, intimidation, or bullying against a student is observed . . . (3) . . . willfully
22 harming or injuring a child . . . (4) engaging in inappropriate socialization or fraternization
23 with a student or soliciting, encouraging, or maintaining an inappropriate written, verbal, or
24 physical relationship with a student . . . (6) Using profane, obscene, or abusive language
25 against students, parents/guardians, staff, or community members . . . (7) Willfully
26 disrupting district or school operations by loud or unreasonable noise or other action . . . (9)
27 Dishonesty with students, parents/guardians, staff, or members of the public, including, but
28 not limited to, falsification of information in employment records or other school records . .

1 . (11) Using district equipment or other district resources for the employee’s own
2 commercial purposes or for political activities . . . (12) Using district equipment or
3 communications devices for personal purposes while on duty, except in an emergency,
4 during scheduled work breaks, or for personal necessity . . . (13) Causing damage to or
5 engaging in theft of property belonging to students, staff, or the district”

6 “An employee who observes or has evidence of another employee’s inappropriate
7 conduct shall immediately report such conduct to the principal or Superintendent or
8 designee.”

9 “Any reports of employee misconduct shall be promptly investigated. Any
10 employee who is found to have engaged in inappropriate conduct in violation of law or
11 Board policy shall be subject to disciplinary action and, in the case of a certificated
12 employee, may be subject to a report to the Commission on Teacher Credentialing. The
13 Superintendent or designee shall notify local law enforcement as appropriate.”

14 “An employee who has knowledge of but fails to report inappropriate employee
15 conduct may also be subject to discipline.”

16 “The district prohibits retaliation against anyone who files a complaint against an
17 employee or reports an employee’s inappropriate conduct. Any employee who retaliates
18 against any such complainant, reporter, or other participant in the district’s complaint
19 process shall be subject to discipline.”

20 167. By engaging in the acts alleged in this Complaint, Defendants violated the
21 protections afforded to Plaintiff and other students, as set forth in PUSD policies 4119.21(a),
22 4219.21, and 4319.21.

23 168. As a direct and proximate result of Defendants’ acts, as alleged in this Complaint,
24 Plaintiff suffered severe and extreme humiliation, stress, anxiety, mental anguish, and emotional
25 and physical distress.

26 169. A true and correct copy of PUSD policies 4119.21(a), 4219.21, and 4319.21 are
27 attached to this Complaint as Exhibit 10.

28 **Violation of Discipline Measures and Standards**

1 170. PUSD policies 6145 and 5144, which are based in part on Education Code sections
2 35145, 35160.5, 35179, 35181, 48930-48938, 35146, 35291, 35291.5-35291.7, 44807.5, 48900-
3 48926, 48980-48985, and 49005-49006.4, California Constitution, Article IX, Section 5, and
4 *Hartzell* 35 Cal.3d 899, state in relevant part:

5 “The Governing Board recognizes that extracurricular and cocurricular activities
6 enrich the educational and social development of students and enhance students’
7 connectedness with the schools. The district shall encourage and support student
8 participation in extracurricular and cocurricular activities”

9 “Prerequisites for student participation in extracurricular and cocurricular activities
10 shall be limited to those that have been demonstrated to be essential to the success of the
11 activity.”

12 “. . . [S]trategies for correcting student misconduct shall reflect the Board’s
13 preference for the use of positive interventions and alternative disciplinary measures over
14 exclusionary discipline measures.”

15 “Disciplinary measures that may . . . cause students to be disengaged from school,
16 such as detention, suspension, and expulsion, shall be imposed only when required or
17 permitted by law or when other means of correction have been documented to have failed.”

18 “Staff shall enforce disciplinary rules fairly, consistently, and in accordance with the
19 district’s nondiscrimination policies.”

20 171. By engaging in the acts alleged in this Complaint, Defendants violated the
21 protections and procedures afforded to Plaintiff and other students, as set forth in PUSD policies
22 6145 and 5144.

23 172. As a direct and proximate result of Defendants’ acts, as alleged in this Complaint,
24 Plaintiff suffered severe and extreme humiliation, stress, anxiety, mental anguish, and emotional
25 and physical distress.

26 173. A true and correct copy of PUSD policies 6145 and 5144 are attached to this
27 Complaint as Exhibit 11.
28

ELEVENTH CAUSE OF ACTION

Negligence:

Failure to Train, Supervise, and Discipline Employees

(Against All Defendants)

174. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

175. Defendants and its employees and agents were in supervisory roles and/or in a position to control, hire, train, supervise, discipline and retain employees pursuant to its policies, including but not limited to performing ongoing supervision and training related to administrator/employee gaslighting, retaliation, harassment, threats, bullying, and intimidation of students, including Plaintiff, and implementing appropriate and proper procedures to respond in a timely manner to student reports of this administrator/employee behavior, including the acts alleged in this Complaint, collectively referred to as “Employee Misconduct.”

176. On information and belief, Defendants failed to adequately train PUSD staff on issues of Employee Misconduct and responding appropriately. Because of this failure, Defendants were inadequately prepared to respond timely and appropriately to Plaintiff’s reports of Employee Misconduct.

177. On information and belief, Defendants failed to adequately train PUSD staff on issues of Employee Misconduct and responding appropriately. Because of this failure, Defendants were inadequately prepared to respond timely and appropriately to their own knowledge of Employee Misconduct committed by others, relating to Plaintiff.

178. On information and belief, Defendants failed to adequately supervise PUSD staff on issues of Employee Misconduct and responding appropriately. Because of this failure, Defendants were inadequately prepared to respond timely and appropriately to Plaintiff’s reports of Employee Misconduct.

179. On information and belief, Defendants failed to adequately supervise PUSD staff on issues of Employee Misconduct and responding appropriately. Because of this failure, and with knowledge of Plaintiff’s reports of Employee Misconduct, there was a failure to have adequate safeguards and supervision to ensure that the staff appropriately and timely responded to Plaintiff’s

1 reports.

2 180. On information and belief, Defendants failed to adequately supervise PUSD staff on
3 issues of Employee Misconduct and responding appropriately. Because of this failure, and with
4 knowledge of Plaintiff's reports of Employee Misconduct, there was a failure to have adequate
5 safeguards and supervision to ensure that the staff appropriately and timely responded to their own
6 knowledge of Employee Misconduct committed by others, relating to Plaintiff.

7 181. On information and belief, Defendants failed to adequately discipline PUSD staff on
8 issues of Employee Misconduct and responding appropriately. This failure of discipline of staff,
9 who on information and belief, had a history of Employee Misconduct, and had a history of failing
10 to timely and appropriately respond to such issues, led to an unsafe school environment that
11 allowed the foreseeable harms that Plaintiff suffered.

12 182. On information and belief, Defendants failed to adequately discipline PUSD staff
13 who failed to timely and appropriately respond to Plaintiff's reports of Employee Misconduct. This
14 failure of discipline caused Plaintiff to suffer unnecessary and ongoing harm and increased fear and
15 anxiety, as she could not trust the district, its trustees, its administrators, or its employees to provide
16 a safe school environment for Plaintiff.

17 183. Defendants failed in their duties to provide ongoing training, supervision, discipline,
18 and application of its policies governing employee conduct. They knew or should have known they
19 were negligent in their duties to maintain and supervise its employees, and prevent foreseeable
20 harm to students, including Plaintiff.

21 184. Defendants had a duty to use reasonable care to investigate, examine, hire, and
22 retain employees who were competent and fit to perform the duties related to working at public
23 schools, without creating a risk to students, and those who were fit to supervise employees and
24 prevent foreseeable harms to its students.

25 185. The absence of adequate safeguards made Plaintiff's injuries likely to occur.

26 186. Defendants' actions and inactions were deliberately and/or knowingly indifferent to
27 the training needs of all employees of the district, including but not limited to the teachers,
28 administrators, and other staff who knew or had reason to know there was a foreseeable threat of

1 harm and Employee Misconduct to Plaintiff and other students.

2 187. Defendants knew or should have know there was a foreseeable and likely risk of
3 emotional harm to Plaintiff.

4 188. A reasonable person in the supervisory roles and other staff roles held by
5 Defendants' employees and agents could have and should have foreseen the injuries suffered by
6 Plaintiff, were likely to occur.

7 189. Defendants breached their duty by failing to take adequate precautions and
8 reasonable steps to investigate and prevent the Employee Misconduct to Plaintiff.

9 190. As a direct and proximate result of Defendants acts, as alleged in this Complaint,
10 Plaintiff was required and did employ healthcare providers to examine, treat, and care for Plaintiff,
11 and incurred medical expenses and incidentals.

12 191. Defendants, by their actions and inactions, including lack of appropriate
13 supervision, training, and discipline of administrators/employees, negligently or recklessly
14 permitted Employee Misconduct to Plaintiff, which caused Plaintiff substantial injury.

15 **TWELFTH CAUSE OF ACTION**

16 **Negligence:**

17 **Failure to Supervise and Prevent Foreseeable Harm to Students**

18 **(Against All Defendants)**

19 192. Plaintiff realleges and hereby incorporates each of the preceding paragraphs.

20 193. Defendants and their employees and agents had a duty to create and maintain a safe
21 and secure campus free from Employee Misconduct and emotional harm.

22 194. Defendants and their employees and agents had a duty to supervise and keep
23 Plaintiff and other students safe from foreseeable Employee Misconduct.

24 195. Defendants and their employees and agents were in an authoritative role and were in
25 a special position to supervise and protect Plaintiff and other students from the Employee
26 Misconduct and acts alleged in this Complaint.

27 196. Defendants failed to take reasonable actions and precautions against the type of
28 injuries suffered by Plaintiff, including but not limited to, the failure to supervise

1 administrators/employees it knew or had reason to know posed a threat of injury and Employee
2 Misconduct and other acts alleged in this Complaint against Plaintiff.

3 197. The absence of adequate safeguards made Plaintiff’s injuries likely to occur, and
4 made them foreseeable.

5 198. As a direct and proximate result of Defendants acts, as alleged in this Complaint,
6 Plaintiff was required and did employ healthcare providers to examine, treat, and care for Plaintiff,
7 and incurred medical expenses and incidentals.

8 199. Defendants, by their actions and inactions, including lack of appropriate
9 supervision, training, and discipline of administrators/employees, negligently or recklessly
10 permitted Employee Misconduct to Plaintiff, which caused Plaintiff substantial injury.

11 **V. REQUEST FOR RELIEF.**

12 Plaintiff requests the following relief:

13 1. A declaration that Defendants are in violation of the following:

14 a. Violation of First Amendment, as applied to the states under the Fourteenth
15 Amendment; 42 U.S.C. §1983;

16 b. Violation of Article I, Section 2(a) of California State Constitution; 42
17 U.S.C. §1983;

18 c. Violation of Section 48950 of California Education Code;

19 d. Violation of Section 48907 of California Education Code;

20 e. Violation of the Fourteenth Amendment; 42 U.S.C. §1983;

21 f. Violation of the Equal Protection Clause of the California Constitution; 42
22 U.S.C. §1983;

23 g. Violation of Article IX of the California Constitution; 42 U.S.C. §1983;

24 h. Violation of PUSD Policies and associated Education Code Sections:

25 a. 4119.24(a);

26 b. 4219.24;

27 c. 4319.24;

28 d. 4119.21(a);

- 1 e. 4219.21;
- 2 f. 4319.21
- 3 g. 6145, and;
- 4 h. 5144.

5 2. A declaration that Defendants shall take no actions against Plaintiff designed or
6 resulting in infringing on her state and federal Constitutional rights to free speech and freedom of
7 expression, or that intimidate, harass, bully, threaten, discriminate, discipline, or otherwise quash
8 Plaintiff's efforts to exercise her rights to free speech or freedom of expression, or her ability to
9 engage in extracurricular activities, including but not limited to playing on the Del Norte Softball
10 team.

11 3. A temporary restraining order, preliminary and permanent injunction, and writ of
12 mandate restraining and preventing Defendants and their officers, agents, or any other persons
13 acting with them or on their behalf from implementing and enforcing any of the following actions
14 against Plaintiff for the alleged conduct that is the subject of this Complaint:

- 15 a. Suspension;
- 16 b. Transfer;
- 17 c. Disenrollment;
- 18 d. Discipline or punishment;
- 19 e. Removal or exclusion from extracurricular activities;
- 20 f. Removal or exclusion from athletics;
- 21 g. Adverse consequences towards graduation;
- 22 h. Verbal criticisms and abuse;
- 23 i. Intimidation, harassment, discrimination, segregation, or bullying;
- 24 j. Denying Plaintiff the right, opportunity, or access to peacefully protest;
- 25 k. Denying Plaintiff the right, opportunity, or access to exercise lawfully
26 protected free speech;

27 4. A temporary restraining order, preliminary and permanent injunction, and writ of
28 mandate restraining and preventing Defendants and their officers, agents, or any other persons

1 acting with them from violating any PUSD Policies as they relate to Plaintiff, other students, and
2 the Del Norte Softball program.

3 5. A temporary restraining order, preliminary and permanent injunction, and writ of
4 mandate restraining and preventing Defendant SUPERINTENDENT MARIAN PHELPS from
5 engaging, influencing, participating, or being involved with the Del Norte Softball program to any
6 extent other than a parent.

7 6. A temporary restraining order, preliminary and permanent injunction, and writ of
8 mandate restraining and preventing Defendant SUPERINTENDENT MARIAN PHELPS from
9 doing the following things to Plaintiff or her immediate family: come within 10 yards of her
10 person, contacting (either directly or indirectly), investigating, harassing, intimidating, threatening,
11 bullying, retaliating, threatening, or disturb the peace.

12 7. A declaration and writ of mandate directing Defendants to take immediate and
13 appropriate disciplinary actions against SUPERINTENDENT MARIAN PHELPS in compliance
14 with applicable law and PUSD Policy relating to Employee Misconduct and the allegations in this
15 Complaint.


16 8. A declaration that the following policies, actions taken, or actions threatened to be
17 taken by Defendants, to or against, Plaintiff, are in violation of the law and/or PUSD Policy, and
18 issuance of a temporary restraining order, preliminary and permanent injunction, and writ of
19 mandate prohibiting Defendants from engaging in these, or similar policies, actions, or threatened
20 actions against Plaintiff:

- 21 a. Suspension;
- 22 b. Transfer;
- 23 c. Disenrollment;
- 24 d. Discipline or punishment;
- 25 e. Removal or exclusion from extracurricular activities;
- 26 f. Removal or exclusion from athletics;
- 27 g. Adverse consequences towards graduation;
- 28 h. Verbal criticisms and abuse;

- 1 i. Intimidation, harassment, discrimination, segregation, or bullying;
- 2 j. Denying Plaintiff the right, opportunity, or access to peacefully protest;
- 3 k. Denying Plaintiff the right, opportunity, or access to exercise lawfully
- 4 protected free speech;
- 5 9. For compensatory damages according to proof;
- 6 10. For incidental and consequential damages according to proof;
- 7 11. For pain and suffering damages according to proof;
- 8 12. For punitive damages against all individual defendants other than the government
- 9 Defendants PUSD and DEL NORTE HIGH SCHOOL.
- 10 13. For prejudgment interest at the legal rate;
- 11 14. Attorneys' fees and costs recoverable, pursuant to §1021.5 of the Code of Civil
- 12 Procedure, Civil Code §51, et seq., 42 U.S.C. §1983, and any other applicable provision of law;
- 13 15. Costs of suit; and
- 14 16. Such other and further relief as the court may deem just and proper.

15 Dated: November 27, 2023

REDEN | RIDDELL

16
17 By: 
18 Justin G. Reden, Esq.
19 Michael J. Riddell, Esq.
20 Collin E. Cresap, Esq.
21 Attorneys for Plaintiff
22 Plaintiff