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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 **JESSICA TAPIA**, an individual;

12 Plaintiff,

13 v.

14
15 **JURUPA UNIFIED SCHOOL**
16 **DISTRICT; TRENTON HANSEN**,
17 both in his personal capacity and in his
18 official capacity as the Jurupa Unified
19 School District Superintendent;
20 **DANIEL BROOKS**, both in his
21 personal capacity and in his official
22 capacity as Jurupa Unified School
23 District Assistant Superintendent;

24 Defendants.

Case No.:

**VERIFIED COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF AND
DAMAGES:**

- 1) **DEPRIVATION OF THE
FREE EXERCISE OF
RELIGION**
- 2) **DEPRIVATION OF THE
FREEDOM OF SPEECH**
- 3) **VIOLATION OF THE DUE
PROCESS CLAUSE**
- 4) **VIOLATION OF
CALIFORNIA’S FAIR
EMPLOYMENT AND
HOUSING ACT**
- 5) **VIOLATION OF TITLE VII**
- 6) **FIRST AMENDMENT
RETALIATION**

INTRODUCTION

1
2 1. This Action brings facial and as applied constitutional challenges to a
3 number of directives the Jurupa Unified School District (“JUSD” or “the District”)
4 required Plaintiff Jessica Tapia (“Ms. Tapia”) to comply with to maintain her career
5 as a physical education teacher.

6 2. For over two decades, Ms. Tapia has been a beloved and involved
7 member of the JUSD as a student, teacher, and coach. She has invested her entire
8 career into encouraging, loving, and mentoring her students. Students, parents, and
9 faculty have often highlighted her exemplary teaching abilities. Her performance
10 reviews even referred to her as a “distinguished” teacher.

11 3. But on September 30, 2022, Ms. Tapia was blindsided when the District
12 gave her a Notice of Unprofessional Conduct and notified her that pursuant to
13 California Education Code section 44938, she had engaged in unprofessional
14 conduct. JUSD issued twelve meritless allegations against Ms. Tapia.

15 4. Among the allegations, the District accused Ms. Tapia of posting
16 offensive content on her public Instagram account, referencing her faith during
17 conversations with students, and expressing controversial opinions on issues
18 pertaining to gender identity.

19 5. Following the Notice of Unprofessional Conduct, the District presented
20 Ms. Tapia with a “A Plan of Assistance and Directives.” The directives required Ms.
21 Tapia lie to parents about their children’s gender identity, refer to students by their
22 preferred pronouns, refrain from expressing her religious beliefs with students or on
23 her social media, and allow students to use the bathroom or locker room that matched
24 their preferred sex.

25 6. Because Ms. Tapia was unable to comply with the directives due to her
26 religious beliefs, she requested an accommodation from the District. JUSD refused
27 to provide her with any accommodation and subsequently terminated her
28 employment with the District.



1 7. JUSD’s actions violate Ms. Tapia’s First Amendment rights to free
2 exercise and free speech, as well as her rights under Title VII of the Civil Rights Act
3 of 1964, which prohibits discrimination on the basis of religion.

4 8. Ms. Tapia brings this Complaint to vindicate her constitutional and civil
5 rights to act in accordance with her sincerely held religious beliefs.

6 **PARTIES - PLAINTIFF**

7 9. Plaintiff JESSICA TAPIA resides in Riverside County, California.

8 **PARTIES - DEFENDANT**

9 10. Defendant JURUPA UNIFIED SCHOOL DISTRICT is a school
10 district in Riverside County, California.

11 11. Defendant TRENTON HANSEN is the Jurupa Unified School District
12 Superintendent. Defendant Hansen is responsible for adopting and implementing
13 JUSD’s policies and practices challenged in this lawsuit. He is sued in both his
14 official and personal capacities for both implementing and adopting the challenged
15 policies and practices and refusing to extend an exemption or accommodation to
16 Plaintiff.

17 12. Defendant DANIEL BROOKS is the Jurupa Unified School District
18 Assistant Superintendent. Defendant Brooks is responsible for adopting and
19 implementing JUSD’s policies and practices challenged in this lawsuit. He is sued
20 in both his official and personal capacities for both implementing and adopting the
21 challenged policies and practices and refusing to extend an exemption or
22 accommodation to Plaintiff.

23 **JURISDICTION AND VENUE**

24 13. This civil rights action raises federal questions under the United States
25 Constitution, specifically the First and Fourteenth Amendments, and under federal
26 law, particularly 42 U.S.C. § 1983.

27 14. This Court has subject matter jurisdiction over the federal claims
28 pursuant to 28 U.S.C. §§ 1331 and 1343.



1 15. This Court has supplemental jurisdiction over the state claim pursuant
2 to 28 U.S.C. § 1367.

3 16. This Court has authority to grant the requested declaratory relief under
4 the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, implemented through
5 Rule 57 of the Federal Rules of Civil Procedure. This Court is also authorized to
6 grant injunctive relief and damages under 28 U.S.C. § 1343, pursuant to Rule 65 of
7 the Federal Rules of Civil Procedure, and reasonable attorney’s fees and costs under
8 42 U.S.C. § 1988.

9 17. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because a
10 substantial part of the events or omissions giving rise to Plaintiff’s claims occurred
11 in this district.

12 STATEMENT OF FACTS

13 A. Ms. Tapia’s Background and Employment History

14 18. After her own formative experience at Jurupa Valley High School as a
15 student, Ms. Tapia developed a strong desire to teach and mentor students at JUSD.
16 Her passion for both teaching and sports led Ms. Tapia to pursue a physical education
17 teaching position at the high school.

18 19. Since 2014, Ms. Tapia has worked for JUSD in varying capacities.

19 20. From 2014 to 2016, Ms. Tapia served as a resident substitute teacher at
20 Jurupa Valley High School, teaching various subjects.

21 21. In 2015, while working toward her teaching credentials, Ms. Tapia
22 began student teaching a physical education (“P.E.”) class and coaching the girls’
23 basketball and softball teams at Jurupa Valley High School.

24 22. In 2016, after earning her teaching credential, Ms. Tapia accepted a
25 full-time teaching position at Jurupa Valley High School in the Agricultural
26 Department. She accepted the position with the mutual understanding between her
27 and the District, that should a P.E. position open, the District would transfer her to
28 that position.



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1 23. In 2017, the District informed Ms. Tapia of an available P.E. position
2 at Mira Loma Middle School, the same middle school she attended as a student.

3 24. From 2017 to 2021, Ms. Tapia taught P.E. at the middle school. While
4 there, the principal noted that Ms. Tapia “distinguished herself among the rest by
5 always focusing on her student’s mind, body and heart....She is a caring, positive,
6 kind, student-centered teacher that has motivated her students to excel in ways that
7 are unconventional.” A true and correct copy of a letter sent by Principal Mary
8 Boules is attached hereto as Exhibit A.

9 25. The principal further emphasized that “[h]er students absolutely ‘love’
10 her and when you interact with Mrs. Tapia it is very clear and easy to see exactly
11 why. Her positive attitude and high expectations make her students believe in
12 themselves and therefore strive to achieve their potential.” *Id.*

13 26. In 2021, Ms. Tapia transferred back to Jurupa Valley High School and
14 began working as the sole female P.E. teacher at the high school.

15 27. Ms. Tapia has received positive performance evaluations, which
16 confirm that she “encourages the students to give their best effort in the learning of
17 new activities and drills.” A true and correct copy of the JUSD performance
18 evaluation is attached hereto as Exhibit B.

19 28. Her performance evaluations also state that Ms. Tapia “has a calm and
20 caring demeanor for her students” and is an “asset to the PE department and to the
21 students she teachers.” *Id.*

22 **B. Ms. Tapia’s Religious Beliefs**

23 29. As a Christian, Ms. Tapia believes that God defines human sexuality,
24 and that men and women are created in the image of God. Her religion also holds
25 that God created two sexes: male and female.

26 30. As a result of her faith, Ms. Tapia also believes that all students,
27 regardless of sexual orientation, race, or gender, should be treated with respect,
28 kindness, and love. But her faith precludes her from endorsing policies that cause



1 her to reject her faith, such as facilitating a student’s gender transition or withholding
2 information about it from the student’s parents.

3 31. Ms. Tapia believes that the relationship between parents and children
4 was created by God, and God requires parents to “train up a child in the way he
5 should go; even when he is old he will not depart from it.” Proverbs 22:6.

6 32. Ms. Tapia has never proselytized, nor has she discussed her religious
7 beliefs with students unless they have approached her and asked her questions about
8 her faith.

9 33. As an employee of JUSD, Ms. Tapia, at times, allowed students to listen
10 to any music or podcast of their choosing during her P.E. classes. Ms. Tapia would
11 often listen to worship music during this time from her phone, but she kept the sound
12 levels at a minimum in case any of her students needed to get her attention.

13 34. Ms. Tapia has regularly posted quotes, Bible verses, and her religious
14 beliefs regarding cultural issues on her personal social media pages without any
15 issues. She does not identify herself as a teacher or an employee of the District on
16 her social media pages. She does not indicate that her beliefs or opinions are
17 representative of the District’s.

18 **C. JUSD’s Allegations and Directives**

19 35. Two days before the end of the 2021-2022 school year, Ms. Tapia
20 received disturbing messages and comments on her personal Instagram account from
21 alleged Jurupa Valley High School students.

22 36. When she came to school the next day after receiving these messages
23 and comments, during third period, one of the high school principals pulled her out
24 of the classroom and told her she needed to meet with Assistant Superintendent of
25 Human Resources Daniel Brooks (“Mr. Brooks).

26 37. Mr. Brooks informed Ms. Tapia that some issues had been brought to
27 the District’s attention regarding her personal social media posts. Mr. Brooks told
28 Ms. Tapia that she would be placed on paid administrative leave and that she would



1 need to leave the school campus until further notice.

2 38. On July 29, 2022, Mr. Brooks, as authorized by Superintendent Trenton
3 Hansen, sent Ms. Tapia numerous, unfounded allegations the District was in receipt
4 of and asked her to respond to them as part of an internal investigation.

5 39. The allegations, in part, were premised on social media posts Ms. Tapia
6 made on her personal Instagram account.

7 40. The District claimed, as allegedly supported by students, that Ms.
8 Tapia's social media posts were racist, offensive, disrespectful, and mocking
9 towards individuals based upon their sexual orientation.

10 41. These allegations were a mischaracterization of who Ms. Tapia is. Ms.
11 Tapia's faith requires her to love all people, regardless of sexual orientation, race, or
12 gender.

13 42. In fact, Ms. Tapia has been adored by students and parents throughout
14 her teaching career because she invests time into mentoring and caring for each
15 student in her classroom.

16 43. Ms. Tapia is unabashed about her faith, though, and shares her religious
17 beliefs on issues such as marriage, sexual orientation, and transgenderism. Her
18 beliefs are based upon the Bible.

19 44. JUSD also accused Ms. Tapia of proselytizing during P.E. class.

20 45. Again, Ms. Tapia does not force her beliefs upon others. She has
21 provided information related to her faith when asked by students.

22 46. The District also accused Ms. Tapia of not calling a student by the
23 student's preferred pronoun.

24 47. Ms. Tapia has never been asked to refer to students by their preferred
25 pronouns and has never referred to students by their preferred pronouns in the past,
26 and it was not an issue until JUSD became aware of her beliefs on social media. Ms.
27 Tapia's refusal to refer to a student's preferred pronoun did not create a hostile
28 environment or disrupt her classroom.



1 48. The District did not discipline or call in for questioning other teachers
2 who were expressing their political and religious beliefs on their social media pages
3 during the same time of the accusations levied against Ms. Tapia.

4 49. On or about August 15, 2022, John Vigrass (“Mr. Vigrass”), Ms.
5 Tapia’s union representative, submitted a response to the District’s allegations on
6 behalf of Ms. Tapia categorically denying any wrongdoing.

7 50. In this response, Mr. Vigrass warned the District that “[s]ubjecting
8 employees to a political or social litmus test and proposing to discipline them for
9 off-duty, legally protected speech has historically proven to be unwise.”

10 51. Mr. Vigrass reiterated that Ms. Tapia “on her own time with her own
11 resources [] posted content.”

12 52. On or about September 30, 2022, Ms. Tapia attended a meeting with
13 District representatives during which she received a Notice of Unprofessional
14 Conduct (“Notice”) signed by Mr. Brooks. On information and belief, Mr. Hansen
15 authorized this letter.

16 53. JUSD advised Ms. Tapia that while the Notice was being issued
17 pursuant to Education Code section 44938 for unprofessional conduct, her “conduct
18 may also constitute other violations of Education Code section 44932, such as
19 evident unfitness for service, immoral conduct, and/or persistent violation of or
20 refusal to obey the school laws of the state and reasonable regulations of the
21 District’s School Board.”

22 54. The District improperly concluded Ms. Tapia violated the California
23 Education Code section 220 and CDE Board Policies 5145.3, 5145.9, and 4119.21
24 (“Board Policies”).

25 55. CDE Board Policy 5145.3 protects against discrimination and
26 harassment.

27 56. CDE Board Policy 5145.9 requires school districts to provide “a
28 respectful, inclusive, and safe learning environment that protects students from



1 discrimination, harassment, intimidation, bullying or any other type of behavior that
2 is motivated by hate.”

3 57. The District also reminded Ms. Tapia of Board Policy 4119.21, Code
4 of Ethics of the Education Profession, which states in relevant part: “The educator,
5 believing in the worth and dignity of each human being recognizes the supreme
6 importance of the pursuit of truth, devotion to excellence, and the nurturing of
7 demographic principles. Essential to these goals is the protection of freedom to learn
8 and to teach and the guarantee of equal educational opportunity for all.”

9 58. JUSD also concluded, without any merit, that Ms. Tapia’s conduct
10 “demonstrate[d] a lack of good behavior and judgment.”

11 59. To “cure” her “deficiencies,” the District directed Ms. Tapia to refer to
12 students by their preferred gender pronouns; refrain from publicly posting her faith
13 and opinions on social media; and refrain from discussing her religious beliefs or the
14 Bible with students.

15 60. The Notice also directed Ms. Tapia to agree to vague directive like
16 treating students with respect and dignity, using good judgment when interacting
17 with students, acting in a professional manner while at work, and complying with
18 the aforementioned Board Policies and Education Code section 220.

19 61. At the September 30 meeting, the District also vocally directed Ms.
20 Tapia “to withhold information and lie to parents about their student’s
21 name/gender/pronoun preference.”

22 62. The District also informed Ms. Tapia that she had to allow transgender
23 students to use the bathroom or locker room that matched their preferred sex.

24 63. School districts are given discretion when applying the Board Policies
25 and Education Code section 220. JUSD interprets these sections to mean that all
26 teachers must affirm a child’s preferred gender and allow them to use the locker
27 room or bathroom of their choice.

28 64. The directives outlined in the Notice are hereinafter referred to as “the



1 Directives.”

2 65. The Directives were presented to Ms. Tapia in a take-it-or-leave-it
3 manner. Ms. Tapia had to comply with the Directives or risk losing her job.

4 66. Following this meeting and the issuance of the Notice, Ms. Tapia took
5 a medical leave of absence and was absent from duty through December 2022.

6 67. The Directives caused Ms. Tapia to suffer severe mental and emotional
7 anguish because she was torn between agreeing to conditions that caused her to
8 violate her religious beliefs or losing the job she worked her entire life for.
9 Consequently, she was unable to focus on her job.

10 **D. JUSD’s Denial of Request for a Religious Accommodation**

11 68. On or about December 19, 2022, Ms. Tapia, through her union
12 representative, informed the District that she could not comply with the Directives.
13 A true and correct copy of Ms. Tapia’s letter is attached hereto as Exhibit C.

14 69. Regarding Directive 1, Ms. Tapia stated, “Staying true to my faith and
15 beliefs, I can and will only refer to students by the name and gender/pronouns
16 provided by their parents/legal guardians on school paperwork during enrollment,
17 which is provided to me on my rosters/attendance sheets.” *Id.*

18 70. Regarding Directive 3, Ms. Tapia stated that she could not “refrain from
19 publicly posting content on [her] social media pages that adversely affects [her]
20 relationships with students” as she does not “have control over what a student can
21 find on social media and what they will decide to be affected by.” *Id.*

22 71. Regarding Directive 5, Ms. Tapia stated that she “serve[s], follow[s],
23 and work[s] for the Lord above all else.” While Ms. Tapia does not force her
24 religious beliefs on anyone, consistent with her religious beliefs, she believes she
25 must always be “prepared with an answer for the hope [she has], for anyone who
26 comes asking.” *Id.*

27 72. Regarding the verbal directive, Ms. Tapia stated that she could not
28 “purposely lie and withhold information from parents about their child.”



1 73. On January 13, 2023, Ms. Tapia, her union representative, and Mr.
2 Brooks participated in a meeting to determine whether accommodations or
3 exemptions were available to Ms. Tapia. During this meeting, Mr. Brooks requested
4 that Ms. Tapia submit accommodation requests.

5 74. On or about January 16, 2023, Ms. Tapia responded to Mr. Brooks with
6 the following potential accommodations:

- 7 1. To call students by the name listed on the school roster.
- 8 2. To transfer to Mira Loma Middle School.
- 9 3. The District require students to use the locker room that matches the
10 sex on their birth certificate or provide a separate changing area for
11 students who are transgender.
- 12 4. To transfer to another position in the District in which she would not
13 interact with students.

14 75. On or about January 18, 2023, the District determined that it could not
15 accommodate Ms. Tapia’s religious beliefs without violating California and federal
16 law, “aimed at protecting students and providing *all* students, a discrimination and
17 harassment free learning environment.”

18 76. The District scheduled a meeting for January 27, 2023 to determine
19 whether Ms. Tapia could remain a District employee without infringing on her
20 religious beliefs.

21 77. On or about January 26, 2023, Ms. Tapia submitted a letter to the
22 District which further explained her religious beliefs.

23 78. In this letter, Ms. Tapia informed the District that lying to parents
24 regarding their children’s identity also conflicts with Board Policy 5131.9, which
25 requires that District employees create and maintain a climate that encourages
26 honesty.

27 79. The District did not negotiate with Ms. Tapia in good faith to find an
28 alternative accommodation, nor did the District suggest that no other



1 accommodation was available.

2 80. The District had no legitimate reason to deny all of Ms. Tapia's
3 requested accommodations.

4 81. The District's findings were not based on evidence or made in good
5 faith.

6 82. First, the District provided no evidence that calling students by their
7 listed name on the school roster would impose a burden. The District did not
8 demonstrate that such an accommodation has or will disrupt school learning or
9 prevent JUSD from efficiently providing its educational services to the public.

10 83. Similarly, the District did not demonstrate that transferring Ms. Tapia
11 to the middle school would impose a burden. The District assumed that Ms. Tapia's
12 requests would disrupt learning for transgender students at the middle school.

13 84. The District also has no legitimate basis for allowing students to use the
14 locker room or bathroom that does not match their sex on their birth certificate.
15 Requiring students to use the bathroom and locker room that matches their sex on
16 their birth certificate would not interfere with the regular operations of the District.

17 85. Finally, JUSD cannot show that Ms. Tapia has or will discriminate
18 against or harass students.

19 86. Indeed, Ms. Tapia's teaching history demonstrates that she has created
20 a loving and inclusive environment for all students.

21 87. Ms. Tapia would never discriminate or harass a student because of their
22 sexual orientation, gender, or race. Again, her religion requires her to love everyone
23 but to not affirm beliefs or behaviors that are antithetical to the Word of God.

24 88. The District's decision to deny Ms. Tapia a religious accommodation
25 was arbitrary.

26 89. The District has previously provided religious accommodations and
27 exemptions.

28 90. For instance, during March 2023, the District implemented an LGBTQ



1 training. Several teachers requested an exemption because the questions required
2 them to agree to statements that violated their religious beliefs.

3 91. JUSD granted them an exemption even though it had previously stated
4 the training was necessary to provide a safe and inclusive environment for all
5 students.

6 **E. JUSD’s Termination of Ms. Tapia’s Employment**

7 92. On January 30, 2023, the District released Ms. Tapia from employment
8 because she was unwilling to agree to the Directives that violated her sincerely held
9 religious beliefs. The District specifically stated that because it could not
10 accommodate Ms. Tapia’s religious beliefs, it had to release her.

11 93. After receiving the notice of her release, Ms. Tapia responded to the
12 notice reiterating her religious beliefs regarding human sexuality and lying. She
13 referenced Genesis 5:2 which states, “Male and female He created them, and He
14 blessed them and named them man when they were created.”

15 94. She also referenced Proverbs 12:22 which states, “Lying lips are an
16 abomination to the Lord, but those who act faithfully are his delight.”

17 95. Ms. Tapia told the District that her faith is the “very core” of who she
18 is and that she “will always be ready to share the answer for the hope” she has with
19 “anyone who comes asking, as stated . . . [she] must be prepared to do as a follower
20 of Christ in 1 Peter 3:15.”

21 **F. Ms. Tapia’s Charge of Religious Discrimination with the EEOC**

22 96. Ms. Tapia filed a complaint of religious discrimination with the Equal
23 Employment Opportunity Commission (EEOC) on February 8, 2023.

24 97. The U.S. Department of Justice issued a right-to-sue letter on March
25 20, 2023.

26 98. Ms. Tapia has also sought a right-to-sue letter with California’s
27 Department of Fair Employment and Housing.

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FIRST CAUSE OF ACTION
Violation of the Free Exercise Clause of the
First Amendment to the United States Constitution
(42 U.S.C. § 1983)

99. Plaintiff re-alleges and incorporates by reference the allegations in the preceding paragraphs 1 through 98, as if fully set forth herein.

100. The First Amendment’s Free Exercise Clause provides that “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.”

101. The First Amendment guarantees Ms. Tapia’s right to freely exercise her religion.

102. Plaintiff’s religious faith precludes her from complying with the Directives.

103. The Directives, on their face and as applied, impose a substantial burden on Plaintiff’s free exercise of religion.

104. The Directives, on their face and as applied, violate Ms. Tapia’s right to free exercise of religion because they force her to forego her religious beliefs to maintain public employment.

105. The Directives, on their face and as applied, are not neutral and generally applicable.

106. The District has applied the Directives in a discriminatory manner. For instance, the District allows other teachers to discuss their political opinions during class and on their social media.

107. The District’s accommodation policy was not generally applicable because, as the Supreme Court recently reaffirmed, a policy that provides a “mechanism for individualized exemptions” is not generally applicable. *Fulton v. City of Phila.*, 141 S. Ct. 1868, 1877 (2021).

108. The District provides religious accommodations on an individualized



1 basis. The District follows no objective, particularized criteria.

2 109. The Directives, on their face and as applied, constitute unconstitutional
3 conditions because they allow the District to deny Ms. Tapia public employment for
4 exercising her religious beliefs. *See Koontz v. St. Johns River Water Management*
5 *Dist.*, 570 U.S. 595, 604 (2013).

6 110. The Directives, on their face and as applied, are not narrowly tailored
7 to meet any compelling government interest.

8 111. The District has no compelling reason to lie to or deceive parents or
9 require teachers to refer to students by their preferred pronouns.

10 112. The District has no compelling interest in enforcing its Directives to
11 comply with California or federal law because the Directives are not required by
12 California or federal law.

13 113. As a direct and proximate result of Defendants' violation of the First
14 Amendment, Plaintiff has suffered, and will suffer, irreparable harm, including the
15 loss of her fundamental constitutional rights, entitling her to declaratory and
16 injunctive relief. Additionally, Plaintiff is entitled to nominal damages,
17 compensatory damages in an amount to be proven at trial, and attorneys' fees under
18 42 U.S.C. § 1988.

19 **SECOND CAUSE OF ACTION**

20 **Violation of the Free Speech Clause of the**
21 **First Amendment to the United States Constitution**
22 **(42 U.S.C. § 1983)**

23 114. Plaintiff re-alleges and incorporates by reference the allegations in the
24 preceding paragraphs 1 through 113, as if fully set forth herein.

25 115. Pursuant to 42 U.S.C. § 1983, Ms. Tapia brings this claim against JUSD
26 for acting under color of state law to deprive her of rights secured by the U.S.
27 Constitution.

28 116. Ms. Tapia's religious expression is fully protected under the First



1 Amendment, which prohibits the government from “abridging the freedom of
2 speech.” This prohibition applies to state and local governments through the
3 Fourteenth Amendment.

4 117. The Directives, and their enforcement, compel Plaintiff’s speech by
5 requiring she use a child’s preferred pronouns.

6 118. Using specific pronouns or affirming a child’s perceived gender
7 identity is neither curricular speech nor part of Plaintiff’s official duties.

8 119. The Directives, and their enforcement, also gag Plaintiff’s speech by
9 prohibiting her from answering truthfully questions asked by parents about their
10 child’s gender identity.

11 120. The Directives, on their face and as applied, regulate Ms. Tapia’s
12 speech, including her religious speech, based on its communicative content, which
13 is a content-based restriction and is presumptively unconstitutional.

14 121. Specifically, the District has ordered Ms. Tapia to refrain from sharing
15 her religious beliefs on her social media or in the classroom.

16 122. JUSD has also engaged in unconstitutional viewpoint discrimination
17 against Ms. Tapia, as the Directives single out viewpoints about gender identity that
18 require Ms. Tapia affirm a child’s preferred sex, even if it deviates from the child’s
19 biological sex.

20 123. The Directives, on their face and as applied, constitute unconstitutional
21 conditions because they allow the District to deny Ms. Tapia public employment for
22 exercising her religious beliefs. *See Koontz v. St. Johns River Water Management*
23 *Dist.*, 570 U.S. 595, 604 (2013).

24 124. The Directives, on their face and as applied, are not narrowly tailored
25 to meet any compelling government interest.

26 125. The Defendants have no legitimate, let alone compelling interest, in
27 requiring Plaintiff to adhere to the District’s own ideological beliefs on a
28 controversial matter of public debate because a policy “aim[ed] at the suppression’



1 of views” is flatly prohibited. *Iancu v. Brunetti*, 139 S. Ct. 2294, 2302 (2019). This
2 “lie[s] beyond the government’s power,” even when the goal is “[a]s compelling as
3 the interest in preventing discriminatory conduct.” *Green v. Miss United States of*
4 *Am., LLC*, 52 F.4th 773, 784, 792 (9th Cir. 2022).

5 126. The District has no compelling reason to lie to or deceive parents or
6 require teachers to refer to students by their preferred pronouns.

7 127. The District has no compelling interest in enforcing its Directives to
8 comply with California or federal law because the Directives are not required by
9 California or federal law.

10 128. The Directives are underinclusive because JUSD has exempted
11 individuals from them, including teachers and staff members. The Directives are
12 overinclusive because they prohibit speech that does not “amount to harassing or
13 discriminatory conduct.” *Taking Offense v. State*, 66 Cal. App. 5th 696, 720 (2021).

14 129. As a direct and proximate result of Defendants’ violation of the First
15 Amendment, Plaintiff has suffered, and will suffer, irreparable harm, including the
16 loss of her fundamental constitutional rights, entitling her to declaratory and
17 injunctive relief. Additionally, Plaintiff is entitled to nominal damages,
18 compensatory damages in an amount to be proven at trial, and attorneys’ fees under
19 42 U.S.C. § 1988.

20 **THIRD CAUSE OF ACTION**

21 **Violation of the Due Process Clause to the United States Constitution**

22 **(42 U.S.C. § 1983)**

23 130. Plaintiff re-alleges and incorporates by reference the allegations in the
24 preceding paragraphs 1 through 129, as if fully set forth herein.

25 131. The Directives unconstitutionally restrict the ability of Plaintiff to
26 engage in First Amendment activities.

27 132. The Directives contain various terms and phrases that are
28 impermissibly vague and ambiguous.



1 133. The Directives permit unbridled discretion by permitting JUSD to
2 determine what actions will warrant the suppression of speech.

3 134. The Directives, on their face and as applied, encourage arbitrary
4 enforcement. JUSD disciplines teachers pursuant to the Directives based upon their
5 subjective interpretation as to what constitutes as discriminatory or harassing speech
6 or speech that is not respectful.

7 135. As a direct and proximate result of Defendants' violation of the Due
8 Process Clause, Plaintiff has suffered, and will suffer, irreparable harm, including
9 the loss of her fundamental constitutional rights, entitling her to declaratory and
10 injunctive relief. Additionally, Plaintiff is entitled to nominal damages,
11 compensatory damages in an amount to be proven at trial, and attorneys' fees under
12 42 U.S.C. § 1988.

13 **FOURTH CAUSE OF ACTION**

14 **Violation of California's Fair Employment and Housing Act**

15 **(Cal. Gov't Code § 12940)**

16 136. Plaintiff re-alleges and incorporates by reference the allegations in the
17 preceding paragraphs 1 through 135, as if fully set forth herein.

18 137. FEHA makes it unlawful "[f]or an employer, because of the . . .
19 religious creed . . . of any person, to refuse to hire or employ the person or to refuse
20 to select the person for a training program leading to employment, or to bar or to
21 discharge the person from employment or from a training program leading to
22 employment, or to discriminate against the person in compensation or in terms,
23 conditions, or privileges of employment." Cal. Gov't Code § 12940(a).

24 138. FEHA requires employers to reasonably accommodate an employee's
25 religious beliefs and practices.

26 139. The Defendant has discriminated against Plaintiff.

27 140. The Defendant failed to engage in any reasonable negotiations to
28 determine if transfers or reassignments were available. Indeed, Ms. Tapia



1 specifically asked to transfer to another school or to another position where she
2 would have limited interaction with students.

3 141. Even still, Defendant failed to offer reasonable accommodations.
4 Defendant did not, and cannot, demonstrate that providing any accommodations
5 would impose an undue burden.

6 142. As a direct and proximate result of Defendants' violation of FEHA,
7 Plaintiff has suffered loss of employment and employment benefits, entitling her to
8 declaratory and injunctive relief and damages.

9 **FIFTH CAUSE OF ACTION**

10 **Violation of Title VII**

11 **(42 U.S.C. § 2000e, *et seq.*)**

12 143. Plaintiffs re-allege and incorporate by reference the allegations in the
13 preceding paragraphs 1 through 142, as if fully set forth herein.

14 144. Title VII of the Civil Rights Act of 1964 prohibits Defendants from
15 discriminating against its employees because of their sincerely held religious beliefs.
16 *See* 42 U.S.C. § 2000e-2(a).

17 145. JUSD's decision to enforce its directives, including banning religious
18 expression against only Ms. Tapia—and not other similarly situated employees who
19 also engage in religious expression—constitutes disparate treatment under the Title
20 VII of the Civil Rights Act of 1964.

21 146. JUSD also directly discriminated against Ms. Tapia on the basis of her
22 religion. JUSD issued directives at Ms. Tapia that targeted her religious expression
23 on her social media pages and on school grounds.

24 147. The District's conduct constitutes discrimination on the basis of
25 religion under 42 U.S.C. § 2000e-2(a).

26 148. The District has also failed to engage in any meaningful interactive
27 process with Plaintiff to determine if a reasonable accommodation is available.

28 149. Ms. Tapia requested to refer to students by the information provided on



1 official school records, transfer schools, or to work in a position that had limited
2 interaction with students. Defendants did not, and cannot, demonstrate that
3 providing these accommodations would impose an undue burden.

4 150. The District's conduct violates 42 U.S.C. § 2000e-(j).

5 151. As a direct and proximate result of Defendants' violation of Title VII,
6 Plaintiff has suffered, and will suffer harm in the loss of her employment and/or
7 employment benefits, entitling her to declaratory and injunctive relief and damages.

8 **SIXTH CAUSE OF ACTION**

9 **Deprivation of Civil Rights Under 42 U.S.C. § 1983 (First Amendment**
10 **Retaliation)**

11 152. Plaintiff re-alleges and incorporates by reference the allegations in the
12 preceding paragraphs 1 through 151, as if fully set forth herein.

13 153. This cause of action is brought pursuant to 42 U.S.C. § 1983 and the
14 First and Fourteenth Amendments to the United State Constitution.

15 154. Clearly established law bars the government from retaliating against
16 Americans for exercising their constitutional rights and from taking actions designed
17 to deter people from exercising their constitutional rights.

18 155. Ms. Tapia was engaged in protected speech when she was expressing
19 her religious beliefs on her personal social media accounts and in her classroom. Her
20 right to not affirm JUSD's beliefs on gender identity is also protected.

21 156. JUSD retaliated against Ms. Tapia by threatening her loss of
22 employment if she did not comply with its Directives. The Directives were presented
23 to her in a take-it-or-leave-it manner.

24 157. JUSD threatened Ms. Tapia with loss of employment and refused to
25 grant her an exemption because of her protected religious expression.

26 158. As a direct and proximate result of Defendants' violation of the First
27 Amendment, Plaintiff has suffered, and will suffer, irreparable harm, including the
28 loss of her fundamental constitutional rights, entitling her to declaratory and



1 injunctive relief. Additionally, Plaintiff is entitled to nominal damages,
2 compensatory damages in an amount to be proven at trial, and attorneys' fees under
3 42 U.S.C. § 1988.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff prays for relief as follows:

- 6 1. Nominal damages for violation of her civil rights;
- 7 2. Damages for Plaintiff in an amount to be proven at trial;
- 8 3. A declaratory judgement that the District's Directives are
- 9 unconstitutional;
- 10 4. A declaratory judgement that the District's directives violate FEHA and
- 11 Title VII;
- 12 5. Temporary, preliminary, and permanent injunctive relief enjoining
- 13 Defendants from enforcing the District's Directives and/or taking any
- 14 adverse employment action against the Plaintiff based upon her refusal
- 15 to follow every directive;
- 16 6. For costs, attorneys' fees and interest, as allowed by law; and
- 17 7. For such other relief the Court determines is proper.

18
19 Respectfully submitted,

20
21
22 DATED: May 3, 2023

ADVOCATES FOR FAITH & FREEDOM

23 By: Mariah Gondeiro
24 Mariah R. Gondeiro, Esq.
25 Julianne Fleischer, Esq.
26 Attorneys for Plaintiff **Jessica Tapia**



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VERIFICATION

I am a party to this action. I am informed, believe, and on that ground allege that the matters stated in the foregoing **VERIFIED COMPLAINT FOR DEPRIVATION OF THE FREE EXERCISE OF RELIGION, DEPRIVATION OF THE FREEDOM OF SPEECH, VIOLATION OF THE DUE PROCESS CLAUSE, VIOLATION OF CALIFORNIA'S FAIR EMPLOYMENT AND HOUSING ACT, VIOLATION OF TITLE VII AND FIRST AMENDMENT RETALIATION** are true. The matters stated in the foregoing document are true and based upon my own knowledge. I believe the matters based upon information and belief are also true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 2, 2023, at Wildomar, California.



Jessica Tapia 5/2/23
Jessica Tapia

EXHIBIT “A”



Elliott Duchon, Superintendent
4850 Pedley Road, Jurupa Valley, CA 92509 T 951.360.4100

November 22, 2019

To Whom It May Concern,

It is with great pleasure and honor to write on behalf of Mrs. Jessica Tapia. Mrs. Tapia has been an exceptional physical education (PE) teacher, department chair and her newest leadership role as Advisory Coordinator. Mrs. Tapia has distinguished herself among the rest by always focusing on her student's mind, body and heart. Due to the subject matter she teaches, it is natural that she emphasizes the importance of physical fitness, a healthy lifestyle and the physical education standards however, Mrs. Tapia is more than a teacher at Mira Loma Middle School. She is a caring, positive, kind, student-centered teacher that has motivated her students to excel in ways that are unconventional.

Students often request to be in Mrs. Tapia's class because she is challenging yet motivational. Her students absolutely "love" her and when you interact with Mrs. Tapia it is very clear and easy to see exactly why. Her positive attitude and high expectations make her students believe in themselves and therefore strive to achieve their potential.

The teachers in her department have gained a level of respect for her as she leads the department in a humble yet focused manner. The physical education department under her leadership and guidance, has a new fitness center as well as the emergence of a new student fitness club.

In addition to the great work, Mrs. Tapia has put in the PE department, Mrs. Tapia has taken the position of the Advisory coordinator. This by no means, is a small task. She has spear-headed the Advisory council to incorporate learning dispositions (Habits of the Mind and Habits of the Heart) school-wide. She is responsible for preparing activities and curriculum based on the dispositions as well as training the staff. Her passion for learning and student success is evident with every interaction I personally have with Mrs. Tapia.

I am blessed to be serving side by side with Mrs. Tapia. As principal, I am extremely grateful for her leadership and feel that she will continue to excel in the role of leadership.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Boules". The signature is fluid and cursive.

Mary Boules
Principal
Mira Loma Middle School
951-360-2883

LEARNING WITHOUT LIMITS

Board of Trustees

Robert Garcia *President*, Silvia Ortega *Clerk*, Karen Bradford, Linda Chard, Melissa Ragole

EXHIBIT “B”

Jurupa Unified School District – Teaching Unit Member – Evaluation Form

APR 17 2018

NAME Jessica Tapia ASSIGNMENT Physical Education SITE Mira Loma Middle DATE 4/12/2018

Date(s) of Observation(s) 8/ 11/1/17, 9/13/17, 10/1/17, 12/8/17, 12/11/17 Date of Last Evaluation 4/12/2018

Evaluator: Check the box that characterizes the evaluatee's predominant performance in each area below.

RATING: E – Exceeds Criteria M- Meets Criteria I-Needs Improvement U-Unsatisfactory

STANDARD 1 – ENGAGING AND SUPPORTING ALL STUDENTS IN LEARNING	E	M	N	U*
<i>Teachers know and care about their students in order to engage them in learning. They connect learning to students' prior knowledge, backgrounds, life experiences, and interests. They connect California Standards for the Teaching Profession (2009) and subject matter to meaningful, real-life contexts. Teachers use a variety of instructional strategies, resources, and technologies to meet the diverse learning needs of students. They promote critical thinking through inquiry, problem solving, and reflection. They monitor student learning and adjust instruction while teaching.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS/COMMENDATIONS/RECOMMENDATIONS
 Mrs. Tapia engages her students in physical education by making it fun and meaningful. She encourages the students to give their best effort in the learning of new activities and drills. Mrs. Tapia meets the needs of the students by utilizing a variety of strategies for students with varied abilities.

**Permanent teaching unit members who receive two or more unsatisfactory ratings in Standards 1, 3 or 4 shall be rated as unsatisfactory overall and shall be referred to the District Peer Assistance and Review program.*

STANDARD 2 – CREATING AND MAINTAINING EFFECTIVE ENVIRONMENTS FOR STUDENT LEARNING	E	M	N	U*
<i>Teachers promote social development and responsibility within a caring community where each student is treated fairly and respectfully. They create physical or virtual learning environments that promote student learning, reflect diversity, and encourage constructive and productive interactions among students. They establish and maintain learning environments that are physically, intellectually, and emotionally safe. Teachers create a rigorous learning environment California Standards for the Teaching Profession (2009) with high expectations and appropriate support for all students. Teachers develop, communicate, and maintain high standards for individual and group behavior. They employ classroom routines, procedures, norms, and supports for positive behavior to ensure a climate in which all students can learn. They use instructional time to optimize learning.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS/COMMENDATIONS/RECOMMENDATIONS
 Mrs. Tapia has established classroom norms/expectations. Students are ready to go at the bell (seated at #) for attendance and stretches. Mrs. Tapia has students model the warm-up drills. Mrs. Tapia promotes social development and team work. Mrs. Tapia has a calm and caring demeanor for her students.

Evaluatee's Initials JT

Evaluator's Initials MB

Original to Evaluatee

Copy One to Evaluator

Copy Two to Personnel AM

Jurupa Unified School District – TEACHING UNIT MEMBER EVALUATION FORM

STANDARD 3 – UNDERSTANDING AND ORGANIZING SUBJECT MATTER FOR STUDENT LEARNING

Teachers exhibit in-depth working knowledge of subject matter, academic content standards, and curriculum frameworks. They apply knowledge of student development and proficiencies to ensure student understanding of content. They organize curriculum to facilitate students' understanding of the subject matter. Teachers utilize instructional strategies that are appropriate to the subject matter. They use and adapt resources, technologies, and standards-aligned instructional materials, including adopted materials, to make subject matter accessible to all students. They address the needs of English learners and students with special needs to provide equitable access to the content.

E	M	N	U*
☐	☑	☐	☐

COMMENTS/COMMENDATIONS/RECOMMENDATIONS

Mrs. Tapia has an in-depth knowledge of the Physical Education standards. Mrs. Tapia teaches the concept from simple to complex. She utilizes a variety of instructional strategies to meet the needs of the students she teaches.

**Permanent teaching unit members who receive two or more unsatisfactory ratings in Standards 1, 3 or 4 shall be rated as unsatisfactory overall and shall be referred to the District Peer Assistance and Review program.*

STANDARD 4 – PLANNING INSTRUCTION AND DESIGNING LEARNING EXPERIENCES FOR ALL STUDENTS

Teachers use knowledge of students' academic readiness, language proficiency, cultural background, and individual development to plan instruction. They establish and articulate goals for student learning. They develop and sequence long-term and short-term instructional plans to support student learning. Teachers plan instruction that incorporates appropriate strategies to meet the diverse learning needs of all students. They modify and adapt instructional plans to meet the assessed learning needs of all students.

E	M	N	U*
☐	☑	☐	☐

COMMENTS/COMMENDATIONS/RECOMMENDATIONS

Mrs. Tapia works collaborates with the data team to plan instruction. She is well prepared for her lessons and has all of the supplies needed for students. The students were cooperative and participated in the lesson.

STANDARD 5 – ASSESSING STUDENTS FOR LEARNING

Teachers apply knowledge of the purposes, characteristics, and uses of different types of assessments. They collect and analyze assessment data from a variety of sources and use those data to inform instruction. They review data, both individually and with colleagues, to monitor student learning. Teachers use assessment data to establish learning goals and to plan, differentiate, and modify instruction. They involve all students in self-assessment, goal setting and monitoring progress. Teachers use available technologies to assist in assessment, analysis, and communication of student learning. They use assessment information to share timely and comprehensible feedback with students and their families.

E	M	N	U
☐	☑	☐	☐

COMMENTS/COMMENDATIONS/RECOMMENDATIONS

Mrs. Tapia has a set of PE routine that students understand. During the class, Mrs. Tapia is constantly roaming from group to group, while helping individual students with their skill. Both informal and formal assessments are being utilized in her class.

Evaluatee's Initials

AT

Evaluator's Initials

MB

Original to Evaluatee

Copy One to Evaluator

Copy Two to Personnel

Jurupa Unified School District – TEACHING UNIT MEMBER EVALUATION FORM

STANDARD 6 – DEVELOPING AS A PROFESSIONAL EDUCATOR

Teachers reflect on their teaching practice to support student learning. They establish professional goals and engage in continuous and purposeful professional growth and development. They collaborate with colleagues and engage in the broader professional community to support teacher and student learning. Teachers learn about and work with families to support student learning. They engage local communities in support of the instructional program. They manage professional responsibilities to maintain motivation and commitment to all students. Teachers demonstrate professional responsibility, integrity, and ethical conduct.

E	M	N	U
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

COMMENTS/COMMENDATIONS/RECOMMENDATIONS

Mrs. Tapia is an emerging new teacher. She has been an asset to the PE department and to the students she teaches.

ADDITIONAL COMMENTS INCLUDING DESCRIPTION OF UNSATISFACTORY PERFORMANCE (REQUIRED)
Click here to enter text.

OVERALL EVALUATION (Check One):

EXCEEDS DISTRICT STANDARDS

MEETS DISTRICT STANDARDS

NEEDS IMPROVEMENT

UNSATISFACTORY*

***PAR REFERRAL (Check if applicable)**

Permanent teaching unit members who receive two or more unsatisfactory ratings in Standards 1, 3 or 4 shall be rated as unsatisfactory overall and shall be referred to the District Peer Assistance and Review (PAR) program.

EVALUATEE'S COMMENTS (OPTIONAL) *Additional comments may be attached.*

Click here to enter text.

Evaluatee's Signature *Jessica Tapia*

Date 4/12/2018

Evaluator's Signature *[Signature]*

Date 4/12/2018

A signature on this form does not necessarily mean that the unit member agrees with the opinions expressed but indicates that the employee has read the evaluation and has been given an opportunity for discussion and written response.

Original to Evaluatee

Copy One to Evaluator

Copy Two to Personnel

EXHIBIT “C”

Hi Daniel and Shelley,

Thank you for your patience as I have taken the time needed to process and fully understand the Notice of Unprofessional Conduct I have been given. I am ready to return to work and to continue doing what is best for my students, educating them to the best of my ability while supporting each of them as the unique individual they were made to be. This is what I have always done as an educator, since I was hired by JUSD as a substitute teacher in 2014.

With that being said, it is pertinent that I share with you the directives that I cannot comply with, as they go against my Christian faith and beliefs.

Directive #1- Addressing students by their preferred name and preferred gender pronouns. Staying true to my faith and beliefs, I can and will only refer to students by the name and gender/pronouns provided by their parents/legal guardians on school paperwork during enrollment, which is provided to me on my rosters/attendance sheets. The lies and confusion that children are fed in terms of "you aren't who you were created to be" is based in evil and I will not take part in that. I believe that God created male and female. I also believe that God is love and defines love. Therefore, the best thing that I can do to support students and equip them for a bright future is to love and encourage them in who they were created to be, and that is what they were born as, either male or female.

Directive #3- Refrain from publicly posting content on your social media pages that adversely affects your relationships with students...

I do not have control over what a student can find on social media and what they will decide to be affected by. It is my constitutional right to share my beliefs, opinions, and stances on my personal pages if that is what I choose to do. I do not post content directed at or about students. I believe we can all agree that there is always someone offended in today's day and age, no matter what is said or done. I believe we ought to be teaching students what real life looks like: varying beliefs and opinions that don't always match our own, however that does not mean we need to take someone's belief and allow it to affect us personally.

Directive #5- Refrain from discussing religious beliefs or the Bible with students

I serve, follow, and work for the Lord above all else. He has called me to be prepared with an answer for the hope I have, for anyone who comes asking. Therefore, if and when a student feels safe and comfortable enough to come to me with a faith-based question as has happened in the past, I will provide an answer for them. I will not "preach to" or "pray" with them, but I will do my best to provide them with the answer they are searching for. There could very well be no other person in this child's life to help them navigate this and God has called me to share the truth without wavering.

Last but far from least, the directive I was given vocally at our last meeting on September 30, 2022, but I am not seeing or locating in writing, which is: "to withhold information and lie to parents about their student's name/gender/pronoun preference". This is unfathomable to me. In Education Code section 44932 (4) it states that I can be dismissed for "dishonesty". However, dishonesty is okay, as a matter of fact expected of me, in the unique circumstance of speaking with a parent who has a child with gender dysphoria. I will not purposely lie and withhold information from parents about their child, as I am a parent myself and would be furious if this was done to me. This is infringing upon parental rights.

Please let me know how we will be moving forward from here. Thank you and Merry Christmas to you both!