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7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 CITIZENS FOR QUALITY)
EDUCATION SAN DIEGO, an)
11 unincorporated nonprofit association;)
SAN DIEGO ASIAN AMERICANS)
12 FOR EQUALITY FOUNDATION, a)
nonprofit public-benefit corporation;)
13 SCOTT HASSON, individually and as)
next friend on behalf of his minor child,)
14 C.H; CHAOYIN HE, individually and as)
next friend on behalf of her minor child,)
15 B.H; XUEXUN HU, individually and as)
next friend on behalf of his minor child,)
16 R.H; KEVIN STEEL and MELISSA)
STEEL, individually and as next friends)
17 on behalf of their minor child, K.S; and)
JOSE VELAZQUEZ, individually and as)
18 next friend on behalf of his minor child,)
J.V.,)

19 Plaintiffs,

20 vs.

21 SAN DIEGO UNIFIED SCHOOL)
22 DISTRICT; RICHARD BARRERA, in)
his official capacity as Board President;)
23 KEVIN BEISER, in his official capacity)
as Board Vice President; JOHN LEE)
24 EVANS, in his official capacity as Board)
25 member; MICHAEL MCQUARY, in his)
official capacity as Board member;)
26 SHARON WHITEHURST-PAYNE, in)
her official capacity as Board member;)
27 and CYNTHIA MARTEN, in her official)
capacity as Superintendent,)

28 Defendants.

Case No.

**FIRST AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF AND
NOMINAL DAMAGES**

DEMAND FOR JURY TRIAL

1 Plaintiffs, by and through their undersigned counsel, bring this Complaint against
2 the above-named Defendants, their employees, agents, and successors in office, and in
3 support thereof allege the following upon information and belief:

4 **INTRODUCTION**

5 1. “In no activity of the State is it more vital to keep out divisive forces than
6 in its schools.” *Edwards v. Aguillard*, 482 U.S. 578, 584 (1987). Since July 26, 2016,
7 Defendants have engaged with the Council on American-Islamic Relations (“CAIR”),
8 an Islamic advocacy organization, to enact, implement, and enforce an “integrated and
9 holistic” anti-Islamophobia initiative across the San Diego Unified School District
10 (“School District”), purportedly to combat the bullying of, and discrimination against,
11 Muslim students and their families.

12 2. Under the guise of this anti-bullying program, Defendants have entangled
13 themselves with the aforementioned religious organization to set up a subtle,
14 discriminatory scheme that establishes Muslim students as the privileged religious group
15 within the school community. Consequently, students of other faiths are left on the
16 outside looking in, vulnerable to religiously motivated bullying, while Muslim students
17 enjoy an exclusive right to the School District’s benevolent protection.

18 3. The United States Supreme Court has held that government must be neutral
19 toward religion; and it may not aid, foster, nor promote one religion or religious belief
20 over other religions or religious beliefs. *See Lemon v. Kurtzman*, 403 U.S. 602 (1971);
21 *see also Santa Fe Independent School Dist. v. Doe*, 530 U.S. 290 (2000).

22 4. Plaintiffs seek a declaration that Defendants violated their constitutional
23 and statutory rights; preliminary and permanent injunctions enjoining the
24 implementation and enforcement of Defendants’ unconstitutional policies, practices,
25 and procedures; and a judgment awarding nominal damages against all Defendants.
26 Plaintiffs also seek an award of their reasonable costs of litigation, including attorneys’
27 fees and expenses under 42 U.S.C. §§ 1988, Cal. Civ. Code § 52, Cal. C.C.P. § 1021.5,
28 and other applicable law.

JURISDICTION AND VENUE

1
2 5. This action arises under the First and Fourteenth Amendments to the United
3 States Constitution, 42 U.S.C. § 1983, the California Constitution, the Unruh Civil
4 Rights Act, the California Government Code, and the California Education Code.
5 Jurisdiction is conferred on this Court under 28 U.S.C. §§ 1331 and 1343. The Court
6 has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367(a).

7 6. Plaintiffs’ claims for declaratory and injunctive relief are authorized by 28
8 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure,
9 and by the general legal and equitable powers of this Court. Plaintiffs’ claim for nominal
10 damages is made under 42 U.S.C. § 1983 and other applicable law.

11 7. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a
12 substantial part of the events that gave rise to Plaintiffs’ claims occurred in this district.

PLAINTIFFS

13
14 8. Plaintiff Citizens for Quality Education San Diego (“CQE-SD”) is an
15 unincorporated nonprofit association located in San Diego County, California.
16 Members of CQE-SD include parents residing within the School District and other
17 taxpaying members of the community. CQE-SD’s mission is to revitalize and strengthen
18 public education so that San Diego students are afforded a quality education that
19 prepares them to participate in the social, economic, and political activity of our society.
20 One or more members of CQE-SD have been injured as a direct result of Defendants’
21 policies, practices, and procedures, and therefore would have standing to sue in their
22 own right. CQE-SD can bring this action on behalf of its members because the interests
23 at stake are germane to its educational purpose. Further, CQE-SD’s claims are limited
24 to injunctive and declaratory relief, which do not require the participation of individual
25 members in this action. CQE-SD has the capacity to sue and be sued.

26 9. San Diego Asian Americans for Equality Foundation (“SDAAFE”) is a
27 nonprofit public-benefit corporation located in San Diego County, California.
28 SDAAFE’s mission is to advocate for full equality for San Diego Asian Americans by

1 promoting Asian American values and mobilizing the Asian American community on
2 issues of concern, including discrimination in educational institutions. One or more
3 members of SDAAFE have been injured as a direct result of Defendants' policies,
4 practices, and procedures, and therefore would have standing to sue in their own right.
5 SDAAFE can bring this action on behalf of its members because the interests at stake
6 are germane to its purpose of advancing and promoting equality. Further, SDAAFE's
7 claims are limited to injunctive and declaratory relief, which do not require the
8 participation of individual members in this action. SDAAFE has the capacity to sue and
9 be sued.

10 10. Plaintiff Scott Hasson is the parent and legal guardian of Plaintiff C.H., a
11 minor, who at all relevant times was a first-grade student at an elementary school in the
12 San Diego Unified School District, San Diego County, California. Plaintiff Scott
13 Hasson is suing on his own behalf and on behalf of C.H. as his next friend. At all
14 relevant times, Plaintiff Scott Hasson resided within the San Diego Unified School
15 District.

16 11. Plaintiff Chaoyin He is the parent and legal guardian of Plaintiff B.H., a
17 minor, who at all relevant times was a fourth-grade student at an elementary school in
18 the San Diego Unified School District, San Diego County, California. Plaintiff Chaoyin
19 He is suing on her own behalf and on behalf of B.H. as his next friend. At all relevant
20 times, Plaintiff Chaoyin He resided within the San Diego Unified School District.

21 12. Plaintiff Xuexun Hu is the parent and legal guardian of Plaintiff R.H., a
22 minor, who at all relevant times was a fourth-grade student at an elementary school in
23 the San Diego Unified School District, San Diego County, California. Plaintiff Xuexun
24 Hu is suing on his own behalf and on behalf of R.H. as his next friend. At all relevant
25 times, Plaintiff Xuexun Hu resided within the San Diego Unified School District.

26 13. Plaintiffs Kevin and Melissa Steel are the parents and legal guardians of
27 Plaintiff K.S., a minor, who at all relevant times was a seventh-grade student at a middle
28 school in the San Diego County Unified School District, San Diego County, California.

1 Plaintiff Kevin Steel is suing on his own behalf and on behalf of K.S. as his next friend.
2 Plaintiff Melissa Steel is suing on her own behalf and on behalf of K.S. as his next friend.
3 At all relevant times, Plaintiffs Kevin and Melissa Steel resided within the San Diego
4 Unified School District.

5 14. Plaintiff Jose Velazquez is the parent and legal guardian of Plaintiff J.V.,
6 a minor, who at all relevant times was a ninth-grade student at a high school in the San
7 Diego Unified School District, San Diego County, California. Plaintiff Jose Velazquez
8 is suing on his own behalf and on behalf of J.V. as his next friend. At all relevant times,
9 Plaintiff Jose Velazquez resided within the San Diego Unified School District. Further,
10 Plaintiff Jose Velazquez is a veteran of the United States Navy, during which time he
11 served several tours of duty in the War on Terror against Islamic extremists, including
12 fighting in Operation Enduring Freedom and Operation Iraqi Freedom.

13 **DEFENDANTS**

14 15. Defendant San Diego Unified School District (“School District”) is a public
15 entity established and organized under California law and subject to the restrictions of
16 both the United States and California Constitutions. The School District may sue and
17 be sued in its own name.

18 16. Defendant Richard Barrera, at all relevant times, was President of the Board
19 of Education for the School District acting under color of state law. The Board of
20 Education (“Board”) is the School District’s governing body and is responsible for
21 creating, adopting, and implementing its policies, practices, customs, acts, and
22 omissions, including the challenged policies, practices, and procedures set forth in this
23 Complaint. Defendant Barrera is sued in his official capacity.

24 17. Defendant Kevin Beiser, at all relevant times, was Board Vice President for
25 the School District acting under color of state law. Defendant Beiser is sued in his
26 official capacity.

27 18. Defendant John Lee Evans, at all relevant times, was a Board member for
28 the School District acting under color of state law. Defendant Evans is sued in his

1 official capacity.

2 19. Defendant Michael McQuary, at all relevant times, was a Board member
3 for the School District acting under color of state law. Defendant McQuary is sued in
4 his official capacity.

5 20. Defendant Sharon Whitehurst-Payne, at all relevant times, was a Board
6 member for the School District acting under color of state law. Defendant Whitehurst-
7 Payne is sued in her official capacity.

8 21. Defendant Cindy Marten, at all relevant times, was the Superintendent of
9 the School District. Defendant Marten is responsible for creating, adopting, and
10 implementing School District policies, practices, customs, and acts, including the
11 challenged policies, practices, and procedures set forth in this Complaint. Defendant
12 Marten is sued in her official capacity.

13 **STATEMENT OF FACTS**

14 **I. Bullying & Discrimination.**

15 22. Pursuant to California law and School District policy, School District
16 officials, including teachers and administrators, are required to report all incidents of
17 bullying and harassment of students from kindergarten to twelfth grade (K-12),
18 including incidents of religiously motivated bullying.

19 23. As part of its anti-bullying and harassment policies, practices, and
20 procedures, the School District has adopted and applied two definitions of “bullying”:
21 one from the United States Department of Health and Human Services (“HHS”) and the
22 other from Section 48900 of the California Education Code.

23 24. HHS defines “bullying” as follows: “Aggressive behavior that is intentional
24 and that involves an imbalance of power or strength. Typically, it is repeated over time.”

25 25. Section 48900 of the California Education Code defines “bullying,” in
26 relevant part, as follows: “[A]ny severe or pervasive physical or verbal act or conduct,
27 including communications made in writing or by means of an electronic act. . . .”

28 26. According to a School District “Protected Class Report,” from July 1, 2016,

1 to December 31, 2016, there were seven reported incidents of bullying and harassment
2 of K-12 students on the basis of religion.

3 27. According to the School District's active enrollment report as of May 19,
4 2017, there are 125,300 K-12 students actively enrolled in the School District.

5 28. Therefore, approximately 0.006% of actively enrolled K-12 students
6 reported incidents of religiously motivated bullying and harassment.

7 29. The Protected Class Report does not disclose how many of the seven
8 reported incidents of religious bullying, if any, were directed at Muslim students.

9 30. At the School District Board meeting that was held on or about July 26,
10 2016, the Board voted unanimously to direct school officials to develop policies,
11 practices, and procedures to combat Islamophobia and the bullying of, and
12 discrimination against, Muslim students ("Anti-Islamophobia Initiative").

13 **II. Pretext for the Anti-Islamophobia Initiative.**

14 31. "Islamophobia" is the "[f]ear, hatred, or mistrust of Muslims or of Islam."
15 *Islamophobia*, American Heritage Dictionary (5th ed. 2017).

16 32. A "Muslim" is "[a] believer in or adherent of Islam." *Muslim*, American
17 Heritage Dictionary (5th ed. 2017).

18 33. As a moving force for the Anti-Islamophobia Initiative, Defendants relied,
19 and continue to rely, upon oral testimony given at separate Board meetings by Muslim
20 students who were purportedly bullied at school.

21 34. According to Defendants Barrera and Beiser, writing in an op-ed for the
22 *San Diego Union-Tribune* that was published on or about May 10, 2017: "These types
23 of reports are why the San Diego Unified school board took action to bring attention and
24 awareness to the bullying of Muslim students."

25 35. At the Board meetings during which Muslim students gave oral testimony,
26 Defendant Board members did not hear oral testimony from non-Muslim religious
27 students who have been bullied or harassed at school.

28 36. As a moving force for its Anti-Islamophobia Initiative, Defendants have

1 relied, and continue to rely, upon a report released by the Council of American-Islamic
2 Relations' California chapter ("CAIR-CA") entitled *Growing in Faith: California*
3 *Muslim Youth Experiences with Bullying, Harassment & Religious Accommodation in*
4 *Schools* ("Report")¹.

5 37. The Report published the findings of CAIR-CA's 2014 statewide survey of
6 621 Muslim students between the ages of 11 and 18 who were enrolled in public and
7 private schools.

8 38. According to the Report:

9 California's Muslim students, for the most part, reported *a*
10 *healthy school environment* in which they were *comfortable*
11 *participating in discussions about their religious identity,*
12 *believed that their teachers respected their religion, and felt safe*
at school.

13 39. According to the Report, only 6% of students reported not feeling safe at
14 school. Further, only 7% of students reported that they were "often" or "very often"
15 subjected to "mean comments" or "rumors about [them] because of [their] religion."

16 40. In the Report's "Endnotes" section, CAIR-CA defines "bullying" as
17 follows: "the term 'bullying' refers exclusively to bias-related actions committed by
18 students."

19 41. The definition of "bias" is a "preference or an inclination, especially one
20 that inhibits impartial judgment." *Bias*, American Heritage Dictionary (5th ed. 2017).

21 42. Therefore, CAIR-CA's definition of "bullying" is dissimilar to HHS's and
22 the California Education Code's definitions of "bullying."

23 43. Consequently, pursuant to CAIR-CA's definition of "bullying," non-
24 Muslim students who have a *preference or inclination against Islam* are "bullies."

25 44. CAIR-CA did not distribute a comparative survey to non-Muslim students
26 to validate its findings.

27
28 ¹ Available at <https://goo.gl/t5iKuG>

1 45. On or about April 27, 2017, the Anti-Defamation League (“ADL”), which
2 is a national, nonprofit organization that works to stop anti-Semitism, discrimination,
3 and bigotry, released its annual, nationwide *Audit of Anti-Semitic Incidents*.²

4 46. According to the audit, which was compiled from information provided by
5 victims, law enforcement, and community leaders, anti-Semitic incidents at non-Jewish
6 elementary, middle, and high schools increased 106% from 114 incidents in 2015 to 235
7 incidents in 2016. In “Q1 2017,” 95 anti-Semitic incidents were reported.

8 47. At the Board meeting that was held on or about July 26, 2016, or at any
9 Board meeting held thereafter until this action was filed, the Board neither heard
10 testimony from Jewish students nor instructed School District officials to develop an
11 anti-Semitism bullying prevention initiative.

12 48. In August 2016, the Asian American and Pacific Islander Bullying
13 Prevention Task Force, as part of the White House Initiative on Asian Americans and
14 Pacific Islanders, released a report³ documenting the bullying and harassment of Asian
15 American students from 2014-2016. According to the report, which was developed in
16 conjunction with the United States Departments of Education, Health and Human
17 Services, and Justice, Asian American students across the nation reported being bullied
18 because of their religious beliefs.

19 49. At the Board meeting that was held on or about July 26, 2016, or at any
20 Board meeting held thereafter until this action was filed, the Board neither heard
21 testimony from Asian American students nor instructed School District officials to
22 develop a religion-based, Asian American bullying prevention initiative.

23 **III. The Anti-Islamophobia Initiative’s Policies, Practices & Procedures.**

24 50. At the School District Board meeting that was held on or about April 4,
25 2017, School District officials delivered a PowerPoint presentation (“Presentation”)⁴ to

26 _____
27 ² Available at <https://goo.gl/wGHD33>

28 ³ Available at <https://goo.gl/AAJs2s>

⁴ Available at <https://goo.gl/Lrrjyg>

1 the Board, which updated the Board on the School District’s Local Control and
2 Accountability Plan (“LCAP”)⁵.

3 51. The LCAP is a three-year district-level plan, updated annually, which
4 describes the School District’s “key goals for students as well as the specific actions
5 (with expenditures) the district will take to achieve the goals and the means (metrics)
6 used to measure progress.”

7 52. Pursuant to the LCAP and via the Presentation, the School District
8 promulgated policies, practices, and procedures to enact, implement, and enforce the
9 Anti-Islamophobia Initiative.

10 53. In the Presentation, School District officials issued the following policies,
11 practices, and procedures, entitled “Immediate Action Steps,” for enactment,
12 implementation, and enforcement:

- 13 a. ***“Distribute a letter to staff and parents addressing***
14 ***Islamophobia and direct support;”***
- 15 b. ***“Review district calendars to ensure Muslim Holidays are***
16 ***recognized;”***
- 17 c. ***“Include a link of supports on the district’s ‘Report***
18 ***Bullying’ page;”***
- 19 d. ***“Provide resources and strategies to support students***
20 ***during the upcoming month of Ramadan”; and***
- 21 e. ***“Continue the collaboration with community partners and***
22 ***district departments.”***

23 54. In the Presentation, School District officials issued the following policies,
24 practices, and procedures, entitled “Action Steps: Before the start of the 2017-18 school
25 year,” for enactment, implementation, and enforcement:

- 26 a. ***“Provide Resources and materials for teachers on the***
27 ***History/Social Sciences page;”***
- 28 b. ***“Add information related to this topic in the Annual***
Employee Notifications (AP 6381);” and
- c. ***“Explore and engage in formal partnerships with the***
Council on American-Islamic Relations (CAIR).”

⁵ “Executive Summary” available at <https://goo.gl/RirMEF>

1 55. In the Presentation, School District officials issued the following policies,
2 practices, and procedures, entitled “Steps over multiple years,” for enactment,
3 implementation, and enforcement:

- 4 a. “Create a survey to measure knowledge and
5 implementation of practice;”
6 b. “Identify areas of prevention, intervention, and
7 restoration” including ‘Restorative Practices’ and
8 ‘Trauma Informed Practices;’
9 c. ***“Provide a series of professional development
10 opportunities for staff related to awareness and advocacy
11 for Muslim culture;”*** and
12 d. ***“Provide practical tools for educators regarding Islamic
13 religious practices and accommodations in schools.”***

14 56. In the Presentation, School District officials issued the following policies,
15 practices, and procedures, entitled “Student empowerment,” for enactment,
16 implementation, and enforcement:

- 17 a. “Create opportunities for students to come together and
18 share out their successes and challenges in service of
19 unity;”
20 b. ***“Identify safe places*** and individuals for students to reach
21 out to on campus if they have a concern;” and
22 c. “Explore clubs at the secondary level to ***promote the
23 American Muslim Culture*** and the student experiences.”

24 57. In the Presentation, School District officials issued the following policies,
25 practices, and procedures, entitled “Parent and Community Support,” for enactment,
26 implementation, and enforcement:

- 27 a. “Provide Family and Community opportunities to:
28 b. Connect, share experiences, attend professional
development, and receive resources;” and
29 c. “Celebrate the accomplishments of parents, students, and
community in ***creating safe spaces.***”

1 58. On separate Board meetings in April 2017, parents and members of the
2 local community, including members of Plaintiff CQE-SD, presented their concerns
3 before the Board regarding both Defendants’ favoritism and preference for a particular
4 religious group and Defendants’ sustained and detailed relationship with a controversial
5 religious advocacy organization.

6 59. On or about April 27, 2017, Plaintiffs’ counsel sent a letter by mail and
7 electronically to the individual Board Defendants and Defendant Marten, informing
8 them that the Anti-Islamophobia Initiative raises serious constitutional questions.
9 Further, Plaintiffs’ counsel informed Defendants that the policies, practices, and
10 procedures associated with the Anti-Islamophobia Initiative were presently insufficient
11 to prevent civil rights violations.

12 60. In the letter, Plaintiffs’ counsel recommended that Defendants rescind the
13 prior vote that approved the Anti-Islamophobia Initiative and pursue an alternative
14 initiative that would not result in civil rights violations.

15 61. At the time this action was filed, Defendant Board members willfully
16 declined at subsequent Board meetings to rescind their prior vote that approved the Anti-
17 Islamophobia Initiative.

18 **IV. The Council on American-Islamic Relations.**

19 62. Defendants have maintained a sustained and detailed relationship with the
20 Council on American-Islamic Relations (“CAIR”).

21 63. CAIR identifies itself as America’s largest Muslim civil liberties
22 organization.

23 64. On its public website, CAIR lists its core principles, including that it
24 *“believes the active practice of Islam strengthens the social and religious fabric of our*
25 *nation.”*

26 65. CAIR’s stated mission is, in part, to *“enhance understanding of Islam”*
27 and *“empower American Muslims.”*

28 66. As part of its advocacy for Muslims and Islam, CAIR *“conducts and*

1 *organizes lobbying efforts on issues related to Islam and Muslims.”*

2 67. As part of its advocacy for Muslims and Islam, CAIR provides workshops
3 to educators as a “*proactive approach that highlights relevant Islamic practices and*
4 *offers suggestions for religious accommodation.*”

5 68. As part of its advocacy for Muslims and Islam, CAIR provides school
6 officials, educators, and students with guides and pamphlets about Islamic religious
7 practices to provide “a religious educational environment.”⁶

8 69. These pamphlets include quotes from the Quran, which is the central
9 religious text of Islam that Muslims believe to be a revelation from God; a glossary of
10 “Muslim Terms”; and explanations of Muslim religious practices.

11 70. Nihad Awad, CAIR’s Founder and Executive Director, has testified that,
12 “informing the American public about the Islamic faith is a religious obligation, and
13 distributing these publications is both a religious and educational exercise.”⁷

14 71. Ibrahim Hooper, CAIR’s Director of Strategic Communications, has stated:

15 I wouldn’t want to create the impression that I wouldn’t like the
16 government of the United States to be Islamic sometime in the
17 future. But I’m not going to do anything violent to promote that.
18 I’m going to do it through education.

19 72. Since CAIR’s founding in 1994, it has been linked by a complex set of
20 personal, financial, and operational relationships with Islamic extremist groups,
21 including the Muslim Brotherhood and especially Hamas, which the United States State
22 Department has designated as a terrorist organization.

23 73. Six of CAIR’s leaders have been arrested, convicted, or deported for
24 terrorism-related crimes.

25 74. In 2007, federal prosecutors named CAIR as an unindicted co-conspirator

26 _____
27 ⁶ *CAIR-Foundation, Inc. d/b/a Council on American-Islamic Relations (CAIR)*, NLRB,
28 Case 05-RC-186732 (2017).

⁷*Id.*

1 with the Holy Land Foundation for Relief and Development and five of its leaders for
2 providing material support to Hamas. Among those convicted was Ghassan Elashi, the
3 founder of CAIR's Dallas chapter.

4 75. Federal prosecutors have acknowledged that Muslim Brotherhood leaders
5 founded CAIR and that CAIR conspired with other affiliates of the Muslim Brotherhood
6 to support terrorists.

7 76. In 2008, the Federal Bureau of Investigation (FBI) ended formal contact
8 with CAIR because of its ties to terrorism. In an April 2009 letter⁸ to former United
9 States Senator Jon Kyl, the FBI explained its decision, stating:

10 [U]ntil we can resolve whether there continues to be a connection
11 between CAIR or its executives and HAMAS, the FBI does not
12 view CAIR as an appropriate liaison partner.

13 77. In September 2013, the United States Department of Justice reviewed the
14 FBI's interactions with CAIR and reaffirmed the FBI's policy.

15 78. In 2014, the United Arab Emirates, as part of a federal law to combat
16 extremism, designated CAIR as a terrorist organization.

17 79. In 2015, ADL published a report entitled *Profile: The Council of American*
18 *Islamic Relations*⁹ ("Profile"), as part of its "Imagine a World without Hate" campaign.

19 According to the Profile:

- 20 a. "CAIR's stated commitment to 'justice and mutual
21 understanding' . . . is undermined by its anti-Israel
22 agenda."
23 b. "CAIR chapters continue to partner with various anti-
24 Israel groups that seek to isolate and demonize the Jewish
25 State."
26 c. "Some CAIR leaders have overtly expressed the notion
27 that Israel and U.S. law enforcement pose a bigger threat
28 to American Muslims than terrorist groups such as ISIS."

⁸Available at <https://goo.gl/hebPzg>

⁹Available at <https://goo.gl/BvrHLR>

1 **V. The School District’s Multifarious Relationship with CAIR-SD.**

2 80. CAIR San Diego (“CAIR-SD”) is a chapter of CAIR-CA.

3 81. As part of its longtime partnership with CAIR-SD, the School District has
4 permitted CAIR officials, inter alia, to teach students during school hours, issue training
5 resources and materials to School District officials, and disseminate religiously themed,
6 non-educational propaganda to students.

7 82. On or about March 27, 2012, the School District entered into a “Partnership
8 Agreement”¹⁰ with CAIR-SD, which involved the following “partnership activities:”

- 9 a. Teaching Against Islamophobia Training Program for
10 Faculty and Staff of SDUSD;
11 b. Cultural Competency Training for SDUSD Faculty and
12 Staff on Islam and Muslim Community; and
13 c. American Muslim Community Resource for SDUSD.

14 83. According to the School District: “The intent for this partnership is . . . *to
15 provide mutual assistance and benefit through shared time and resources.*”

16 84. On or about March 27, 2012, the Board conducted a “Workshop,” the
17 objective of which, in relevant part, was to “introduce the Board Partnerships that
18 provide training on Islamophobia.”

19 85. As part of the Workshop, CAIR-SD provided training materials to the
20 Board, including a book entitled *Teaching against Islamophobia*.¹¹

21 86. According to the book’s foreword:

22 We hope that the content of this book will assist teachers and
23 students to move toward the emancipatory educational path of
24 critically considering reasons for Islamophobia and popular
25 perceptions toward Islam, Muslims, and Arabic peoples.

26 87. The book trains School District educators to teach students, inter alia, the
27 following:

28 ¹⁰ Available at <https://goo.gl/rbeisy>

¹¹ *Teaching against Islamophobia*, in 347 COUNTERPOINTS: STUDIES IN THE POSTMODERN
THEORY OF EDUCATION (Joe L. Kincheloe, et al. eds., 2010).

- 1 a. “The activities of the American Empire have not been the
2 only forces at work creating an Islamist extremism that
3 violently defies the sacred teaching of the religion[;].
4 American misdeeds have also played an important role in
5 the process;”
6 b. “The ‘hatred and mistrust of the United States in the
7 Islamic world’ is a consequence of ‘right-wing politics,’
8 ‘geo-political needs of the American Empire,’ and
9 ‘widespread ignorance among Americans about the U.S.
10 role in the world and in Islamic history;” and
11 c. “‘9/11 in part reflected the rage toward the U.S. pulsing
12 through the veins of many Muslims,’ and ‘the indifference
13 displayed by many U.S. policymakers toward the suffering
14 of everyday people around the Islamic world fanned the
15 flames of this anti-American fury.’”

16 88. On or about November 10, 2015, Defendants Beiser and McQuary
17 presented on behalf of the Board a “Proclamation . . . In Support and Recognition of
18 Council on American-Islamic Relations (CAIR), San Diego Chapter.”¹² The
19 Proclamation states, in relevant part, the following:

- 20 a. “WHEREAS, *with the guidance of Executive Director
21 Hanif Mohebi, CAIR-San Diego has joined the district’s
22 Office of Race/Human Relations and Advocacy* in
23 promoting equitable educational opportunity for all
24 students and preparing them to succeed in a culturally
25 diverse society;”
26 b. “WHEREAS, *CAIR-San Diego has partnered with the
27 district in mediating situations in the schools* that involve
28 discrimination and other behavioral issues;”
c. “WHEREAS, to further encourage participation in civic
life, every year *CAIR-San Diego selects local high school
juniors and seniors to participate in a mock California
Legislature*, which takes place in the Capitol in
Sacramento;” and
d. “NOW, THEREFORE, BE IT PROCLAIMED, by the San
Diego Unified School District Board of Education that it
*recognizes CAIR-San Diego and thanks the organization
for its 10 years of teaching students* to accept and honor
religious and cultural differences among their peers.”

¹²Available at <https://goo.gl/gyFMKr>

1 89. Defendants’ partnership with CAIR-SD in the Anti-Islamophobia Initiative
2 directly aids CAIR’s organizational objectives of empowering American Muslims and
3 enhancing the understanding of Islam, both of which are intrinsically religious.

4 90. CAIR-SD actively solicits donations to support its collaboration with the
5 School District.

6 91. CAIR-SD solicits donations on its public website to “Combat Bullying in
7 Schools,” which is listed as a “specific program.”¹³

8 92. In 2016, CAIR-SD solicited donations on LaunchGood.com, which is a
9 global crowdfunding platform to support Muslims, to “Sponsor Anti-Bullying workshop
10 at K-12 schools.”¹⁴ According to the campaign description:

11 With bullying incidents on the rise against Muslim students, *we*
12 *actively reach out to Elementary, Middle and High Schools*
13 *across the county to educate the educators.* Teachers and
14 principals *learn* how to spot Anti-Muslim bullying and *get*
15 *training* on how to prevent and address the incidents. *Your*
16 *donation will help us create and distribute proper material and*
17 *training in schools.*

18 93. CAIR’s expectation for the Anti-Islamophobia Initiative is not just to
19 address purported instances of bullying and harassment within the School District.
20 Indeed, the Anti-Islamophobia Initiative is a pilot program through which CAIR is
21 attempting to advance its mission in schools nationwide.

22 94. In an April 5, 2017, interview with *The San Diego Union-Tribune*, CAIR-
23 SD Executive Director Hanif Mohebi stated that if the Anti-Islamophobia Initiative is
24 successful, then “*San Diego Unified School District would be the leading school*
25 *district in the nation to come up with a robust and beautiful anti-bully and anti-*
26 *Islamophobic program.*”

27 ¹³ Available at <https://goo.gl/8MsZMK>

28 ¹⁴ Available at <https://goo.gl/AGt5ej>

1 95. CAIR-CA publishes and distributes to educators, including to School
2 District officials, a pamphlet entitled *An Educator’s Guide to Islamic Practices* (“Islamic
3 Guide”).¹⁵

4 96. The Islamic Guide includes the following quote from the Quran:
5 “Read! For your Lord is most Generous. (It is He) who taught by
6 means of the pen; taught man that which he knew not. The Quran,
7 Chapter 96, Verses 3-5.”

8 97. The Islamic Guide includes the following quote from the Quran:

9 “As the Qur'an says, ‘O mankind! We created you from a single
10 (pair) of a male and a female, and made you into nations and
11 tribes, that you may know each other (Not that you may despise
12 each other).’”

13 98. At the end of the Islamic Guide, CAIR-CA lists over two dozen items for
14 purchase, including pamphlets entitled *Welcome to Our Ramadan* and *Welcome to Our
15 Mosque*, and a license plate holder with the inscription ‘Faith in Action.’”

16 99. On or about February 2, 2017, CAIR-SD officials visited Logan
17 Elementary School in the School District to lecture seventh- and eighth-grade students
18 about Islamophobia.

19 100. CAIR-SD has stated that as of February 2, 2017, CAIR officials have
20 visited over a dozen School District schools since the election of President Donald
21 Trump.

22 101. During CAIR-SD’s visit to Logan Elementary School on or about February
23 2, 2017, CAIR-SD officials disseminated non-educational propaganda to students.

24 102. “Propaganda” is defined as follows:

25 (1) “The systematic propagation of a doctrine or cause or of
26 information reflecting the views and interests of those
27 advocating such a doctrine or cause”; and

28 ¹⁵ Available at <https://goo.gl/2vYa5M>

1 (2) “Material disseminated by the advocates or opponents of a
2 doctrine or cause.”

3 *Propaganda*, American Heritage Dictionary (5th ed. 2017).

4 103. CAIR-SD distributed to students, including to non-Muslim students, a
5 propaganda pamphlet published by CAIR-CA entitled *Know Your Rights as a Muslim*
6 *Youth at School* (“Propaganda Pamphlet”)¹⁶.

7 104. The Propaganda Pamphlet counsels the student to “***Learn more about and***
8 ***be proud of your faith.***”

9 105. The Propaganda Pamphlet offers CAIR-CA’s services under the heading
10 “What CAIR Can Do To Help.”

11 106. CAIR-CA’s services to the student include “***Help connect you to resources***
12 ***about your faith which you can share with administrators and teachers***” and “***Help***
13 ***you file a complaint if school administrators aren’t taking effective action*** to stop the
14 bullying.”

15 107. CAIR-CA encourages Muslim students to report bullying incidents through
16 its website.¹⁷ If a Muslim student reports a bullying incident, CAIR-CA may then report
17 the incident to the School District, either orally or through a formal written complaint,
18 after which School District officials will subject the accused “bully” to a formal
19 investigation and disciplinary action.

20 108. According to the School District’s bullying and intimidation policy, AP
21 6381, a complainant may pursue available civil law remedies outside of the School
22 District’s complaint procedures. Furthermore, the policy states, “[c]omplainants may
23 seek assistance from mediation centers or public/private interest attorneys.”

24 109. CAIR-SD and its officials have maintained, from press statements to
25 fundraising content, that it has collaborated, and will continue to collaborate, with the
26

27 ¹⁶ Available at <https://goo.gl/uFy7yN>

28 ¹⁷ Available at <https://goo.gl/u4GQaC>

1 School District to enact, implement, and enforce the Anti-Islamophobia Initiative.

2 110. According to CAIR-SD, this collaboration includes providing training,
3 resources, educational materials, and guidance on curricular changes.

4 111. In a July 28, 2016, interview with KPBS-FM, CAIR-SD Executive Director
5 Hanif Mohebi commented on the Anti-Islamophobia Initiative.

6 112. The following is a true and accurate excerpt from the interview transcript:

7 Host: Now the San Diego Unified School District still needs to
8 produce a plan and to address anti Muslim bullying. What would
9 you like to see included in that plan?

10 Mohebi: Absolutely, so this is the first step and the plan has to
11 include, ah, number one, providing resources, knowledge is
12 power, ma- I do these - these, ah, trainings in other school
13 districts and one of the top question the, ah, teachers ask me, "I
14 wish I had these information before." Right, so *we need to*
15 *provide them one, ah, resources, two, developments or*
16 *professional development and training, three, we need to work*
17 *on curriculum and make sure that the curriculum is more, ah,*
18 *inclusive and fourth, when we talk about bullying we have to*
19 *make sure that the Muslim community is involved in that*
20 *discussion.*

18 113. On or about April 5, 2017, CAIR-CA released a press release entitled
19 "CAIR-San Diego Welcomes School District's Initiative to Combat Islamophobia,
20 Bullying of Muslim Students," which stated, in relevant part, the following:

- 21 a. "The San Diego chapter of the Council on American-
22 Islamic-Relations (CAIR-San Diego) today welcomed the
23 San Diego Unified School District's (SDUSD) new
24 initiative to combat Islamophobia and the bullying of
25 Muslims students."
26 b. "This plan, *developed in collaboration with CAIR-San*
27 *Diego* and in alignment with the Safe Place to Learn Act
28 (AB 2845), was brought forward for formal board
adoption and passed. It will focus on the district's plan to
address Islamophobia and discrimination against Muslim
students and their families, as directed by the SDUSD
Board in July, 2016."

1 c. “We believe this is a great first step in the direction of
2 protecting Muslim students from the bullying that is a
3 direct result of the growing Islamophobia in our state and
4 nation,’ said CAIR-San Diego Executive Director Hanif
5 Mohebi. ‘Other school districts should follow this lead,
6 and *we will be happy to work with them to provide
7 resources and trainings.*”

8 114. In an April 5, 2017, interview with *The San Diego Union-Tribune*, Mohebi
9 stated:

10 I’m really happy we’re going toward the right direction. I am
11 excited, but also careful and cautious because *the work ahead is
12 something we will all be responsible for.*

13 115. On or about May 24, 2017, CAIR-SD released a press release entitled
14 “CAIR-San Diego, Community Partners to Support Safe Learning Environment for All
15 Students,” which stated, in relevant part, the following:

16 The anti-bullying plan, *developed in collaboration with CAIR-
17 San Diego* and in alignment with the Safe Place to Learn Act (AB
18 2845), will focus on the district's plan to address Islamophobia
19 and discrimination against Muslim students and their families.

20 116. The School District maintains on its website a webpage entitled
21 “Addressing Bullying of Muslim Students.”

22 117. One section of the webpage is entitled “Why partner with CAIR?”, which
23 includes the following:

24 Because CAIR has broad reach, it was helpful to have *input* on
25 what the specific concerns of our Muslim community are and on
26 what actions might serve to address those concerns. *That has
27 been the extent of our partnership. CAIR has not contributed to
28 our curriculum.*

118. The School District and CAIR-SD are making, and continue to make,
contradictory statements about the extent of the School District’s entanglement with
CAIR-SD, which includes both CAIR-SD’s involvement with the enactment,
implementation, and enforcement of the Anti-Islamophobia Initiative and its access to

1 indoctrinate and disseminate propaganda to students.

2 **VI. Plaintiffs' Allegations.**

3 119. Plaintiff Scott Hasson plans for C.H. to continue to receive an elementary
4 school education within the School District. Plaintiff Chaoyin He plans for B.H. to
5 continue to receive an elementary school education within the School District. Plaintiff
6 Xuexun Hu plans for R.H. to continue to receive an elementary school education within
7 the School District. Plaintiffs Kevin and Melissa Steel plan for K.S. to continue to
8 receive a middle school education within the School District. Plaintiff Jose Velazquez
9 plans for J.V. to continue to receive a high school education within the School District.

10 120. As parents of students within the School District (collectively, "Parent
11 Plaintiffs"), Parent Plaintiffs do not wish for their children (collectively, "Student
12 Plaintiffs"), as they mature and become more aware of religious differences, to believe
13 that the School District favors Muslim students and the religion of Islam over students
14 of other faiths and other religions. Therefore, Plaintiffs perceive the Anti-Islamophobia
15 Initiative as the School District's endorsement of Islam and a rejection of other religions,
16 which has caused, and will continue to cause, irreparable harm to their children's
17 education and constitutional rights.

18 121. Defendants have specifically targeted religion for disparate treatment, and
19 under the pretext of preventing bullying and discrimination, have established policies,
20 practices, and procedures that grant Muslim students exclusive access to the School
21 District's accommodations, advantages, privileges, while denying non-Muslim students
22 equal access to the same. Therefore, Defendants convey a message that Islam is the
23 favored religion of the school community, and that the Anti-Islamophobia Initiative
24 makes Muslim students' adherence to Islam relevant to the standing of both Muslim and
25 non-Muslim students within the school community.

26 122. Defendants' formal partnerships and collaboration with CAIR-SD to enact,
27 implement, and enforce the Anti-Islamophobia Initiative constitute government
28 entanglement with religion, and grant CAIR-SD – as well as CAIR-CA and CAIR

1 National – extraordinary discretion, power, and influence to convey religious messages,
2 including proselytization, to students in an involuntary and coercive environment.

3 123. Defendants’ reliance upon both CAIR-CA’s bullying report and prepared
4 student testimony during Board meetings as the prime motivators for the Anti-
5 Islamophobia Initiative undermines any valid secular purpose sought to be served, and
6 is merely a pretext to further particular political views that are intertwined with a
7 religious advocacy organization’s sectarian agenda.

8 124. Plaintiffs do not object to programs that teach about religion and its role in
9 the social and historical development of civilization, nor do Plaintiffs object to School
10 District initiatives that foster mutual understanding and respect for the rights of all
11 individuals regarding their beliefs, values, and customs.

12 125. However, Defendants do not have any pedagogical basis or valid secular
13 purpose to enact, implement, and enforce policies, practices, and procedures that were
14 promulgated to both serve a religious purpose and favor a particular religious sect.
15 Therefore, Plaintiffs object to the use of taxpayer funds to enact, implement, and enforce
16 the Anti-Islamophobia Initiative.

17 126. Defendants do not have any pedagogical basis to collaborate with CAIR, a
18 religious advocacy organization with verifiable links Islamic extremism, to enact,
19 implement, and enforce policies, practices, and procedures that favor a particular
20 religious sect and advance a sectarian agenda. Therefore, Plaintiffs object to the use of
21 taxpayer funds to collaborate and engage in formal partnerships with CAIR-SD, which
22 uses public schools as a means to promote its denominational and theological agenda.

23 127. Defendants’ adoption of multiple definitions of “bullying,” including
24 CAIR-CA’s definition of “bullying” in its Report, fails to inform students of what
25 conduct and speech is prohibited, allows for unbridled discretion in enforcement
26 decisions, and encroaches upon Student Plaintiffs’ free exercise of their sincerely held
27 religious beliefs.

28 128. Under CAIR-CA’s chilling definition of “bullying,” Student Plaintiffs will

1 be accused of Islamophobia when they express or exercise beliefs, including their
2 sincerely held religious beliefs, that neither *prefer* nor *incline* toward Islamic beliefs and
3 Muslim culture.

4 129. Parent Plaintiffs do not wish for their children, as non-Muslims, to be
5 ostracized by other students or staff if they do not accord Muslim students the requisite
6 respect as Defendants' favored religious sect.

7 130. Parent Plaintiffs do not wish for their children, as non-Muslims, to be
8 subject to a civil action brought by CAIR if they do not accord Muslim students the
9 requisite respect as Defendants' favored religious sect.

10 131. Therefore, the Anti-Islamophobia Initiative places coercive pressure on
11 Student Plaintiffs to either suppress their personal beliefs, including the free exercise of
12 their sincerely held religious beliefs, and submit to the School District's favored
13 religious sect or otherwise be accused of Islamophobia.

14 132. Defendants' policies, practices, and procedures are applied selectively to
15 members of a particular class, rather than uniformly to all students. Therefore, because
16 the Anti-Islamophobia Initiative does not apply equally to students of all faiths,
17 including Student Plaintiffs, but only to adherents of the Islamic religion, it lacks a
18 genuine and demonstrable secular purpose.

19 133. Defendants' Anti-Islamophobia Initiative encourages divisiveness along
20 religious lines in a public school setting. Consequently, Defendants' policies, practices,
21 and procedures send a clear message to Student Plaintiffs that they are outsiders, not full
22 members of the school community, while sending an accompanying message that
23 Muslim students are insiders, full members of the school community.

24 134. The Anti-Islamophobia Initiative protects and supports Muslim students'
25 constitutionally protected free exercise of their religion, while non-Muslim students,
26 including Student Plaintiffs, are subjected to bullying on account of their religious
27 beliefs without the same accommodations, advantages, privileges granted to Muslim
28 students.

1 135. Defendants were adequately informed of the legal ramifications of the Anti-
2 Islamophobia Initiative, yet they intentionally and indifferently refused to explore any
3 alternative policies, practices, and procedures that would combat the religiously
4 motivated bullying and harassment of Muslim students – but on an equal basis with
5 students of *all* religions and religious beliefs.

6 136. By expending time and resources to provide special protections to only
7 Muslim students through the Anti-Islamophobia Initiative, Defendants have failed, and
8 will continue to fail, to prioritize or equally consider the religiously motivated bullying
9 of non-Muslim students, including Student Plaintiffs.

10 137. Parent Plaintiffs entrust School District officials with the education of their
11 children, who are impressionable and whose attendance at school is mandatory.
12 Therefore, Defendants’ intentional efforts to promote a favorable view of a particular
13 religion and religious practices, which include allowing CAIR-SD officials to
14 indoctrinate School District students within a “captive” setting, violate their trust and
15 their private beliefs.

16 138. The School District’s minimization and omission of perceived negative
17 facts about Islam constitute subjective and inaccurate instruction. Therefore,
18 Defendants’ selective exposure of ideas about Islam and Muslim culture through the
19 manipulation of educational materials has caused, and will continue to cause, irreparable
20 harm to Student Plaintiffs’ education.

21 139. Defendants’ collaborative efforts to vet and revise curricula, library books,
22 and other educational materials with CAIR-SD to promote a more “favorable” and
23 “inclusive” depiction of Islam and Muslim culture do have any pedagogical basis. Nor
24 do they have any rational relation to combat the bullying of, and discrimination against,
25 Muslim students. Further, Defendants’ policies, practices, and procedures undermine
26 Student Plaintiffs’ right to learn a diverse body of ideas, including those that may be
27 viewed to be unfavorable by school officials or a particular outside group.

28 140. Defendants’ collaborative efforts to vet and revise curricula, library books,

1 and other educational materials with CAIR – an anti-Israel organization that rejects
2 Israel as a legitimate State and adversely demonizes Jewish people – to promote a more
3 “favorable” and “inclusive” depiction of Islam and Muslim culture, poisons the
4 educational environment and advances a particular political and religious viewpoint to
5 a captive student audience.

6 141. Defendants’ blessing to CAIR-SD to formulate, integrate, and disseminate
7 religious propaganda under the guise of instructional and anti-bullying materials
8 impermissibly suggests that CAIR-SD’s “partnership” with the School District is a valid
9 component of a compulsory education, which constitutes government preference for,
10 and entanglement with, Islam.

11 142. Defendants’ adoption, distribution, and dissemination of instructional
12 materials created, published, and provided by CAIR-CA, with or without equal
13 contributions by other secular or sectarian groups, reflect adversely upon Student
14 Plaintiffs as members of religions other than Islam.

15 143. The School District intentionally and knowingly permitted CAIR-SD to
16 teach and disseminate religious doctrines and propaganda to “captive” pupils in its tax-
17 supported public school buildings, which directly and substantially aids CAIR-SD in its
18 fundraising and religious advocacy objectives.

19 144. The School District intentionally and knowingly adopted and distributed
20 materials to educators and teachers that were published by CAIR-CA with full
21 knowledge that such actions will directly aid and substantially benefit CAIR-SD’s
22 fundraising and religious advocacy objectives.

23 145. As a direct and proximate result of Defendants’ continuing violation of
24 Plaintiffs’ rights, Plaintiffs have suffered immediate and irreparable harm. Without
25 injunctive and declaratory relief as requested herein, Plaintiffs will continue to suffer
26 immediate and irreparable harm, including, but not limited to, the loss of the ability to
27 exercise their constitutional rights.

28 ///

1 places an undue influence on the minds and feelings on impressionable children.

2 154. Defendants’ policies, practices, and procedures also substantially harm the
3 ability of Plaintiffs CQE-SD and SDAAFE to accomplish their organizational goals,
4 which include advocating quality education for all students and eliminating
5 discrimination and inequality within the School District.

6 155. As a direct and proximate result of Defendants’ violation of the
7 Establishment Clause, Plaintiffs have suffered, are suffering, and will continue to suffer
8 irreparable harm, including the loss of their constitutional rights, entitling them to
9 declaratory and injunctive relief and nominal damages.

10 **SECOND CLAIM FOR RELIEF**

11 **VIOLATION OF THE FREE EXERCISE CLAUSE**

12 **OF THE FIRST AMENDMENT**

13 **(By Plaintiffs Hasson, He, Hu, Steel, Steel & Velazquez)**

14 156. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

15 157. The Free Exercise Clause of the First Amendment to the United States
16 Constitution (“Free Exercise Clause”) prohibits government action that substantially
17 burdens a person’s sincerely held religious beliefs.

18 158. Because of the aforementioned policies, practices, and procedures, engaged
19 in under color of state law, Defendants have violated the Free Exercise Clause as applied
20 to the states and their political subdivisions under the Fourteenth Amendment and 42
21 U.S.C. § 1983.

22 159. Defendants’ Anti-Islamophobia Initiative substantially burdens Plaintiffs’
23 sincerely held religious beliefs by failing to grant Plaintiffs equal access to its
24 accommodations, advantages, privileges on an equal basis with Muslim students.

25 160. The Anti-Islamophobia Initiative is neither neutral nor generally
26 applicable, and it intentionally and discriminatorily denies Student Plaintiffs equal
27 access to the accommodations, advantages, and privileges that are granted only to
28 Muslim students.

1 161. There is no compelling interest sufficient to justify the Anti-Islamophobia
2 Initiative, it is not the least restrictive means to accomplish its purported governmental
3 purpose, nor is the restriction of Student Plaintiffs' free exercise of religion narrowly
4 tailored to that purpose.

5 162. As a direct and proximate result of Defendants' violation of the Free
6 Exercise Clause, Plaintiffs have suffered, are suffering, and will continue to suffer
7 irreparable harm, including the loss of their constitutional rights, entitling them to
8 declaratory and injunctive relief and nominal damages.

9 **THIRD CLAIM FOR RELIEF**

10 **VIOLATION OF THE EQUAL PROTECTION CLAUSE OF**
11 **THE FOURTEENTH AMENDMENT**

12 **(By All Plaintiffs)**

13 163. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

14 164. The Equal Protection Clause of the Fourteenth Amendment to the United
15 States Constitution ("Equal Protection Clause") prohibits, absent a compelling
16 governmental interest, consideration of the religious affiliation of a person or group in
17 governmental decision-making as well as the denial of equal benefits based on
18 membership in such groups.

19 165. Because of the aforementioned policies, practices, and procedures, engaged
20 in under color of state law, Defendants have deprived Plaintiffs of the equal protection
21 of the law guaranteed under the Fourteenth Amendment and 42 U.S.C. § 1983.

22 166. The Anti-Islamophobia Initiative is not facially neutral, it discriminates
23 between religion and non-religion, and it specifically targets religious students for
24 discriminatory treatment.

25 167. The Anti-Islamophobia Initiative is an unconstitutional abridgment of
26 Plaintiffs' right to equal protection of the law because it permits the School District to
27 treat Plaintiffs differently from Muslim students due to their religion and religious
28 beliefs.

1 168. The Anti-Islamophobia Initiative is unsupported by a compelling
2 government interest sufficient to justify its enactment, implementation, and
3 enforcement, nor is it the least restrictive means to accomplish its purported
4 governmental purpose.

5 169. Defendants' policies, practices, and procedures also substantially harm the
6 ability of Plaintiffs CQE-SD and SDAAFE to accomplish their organizational goals,
7 which include advocating quality education for all students and eliminating
8 discrimination and inequality within the School District.

9 170. As a direct and proximate result of Defendants' violation of the Equal
10 Protection Clause, Plaintiffs have suffered, are suffering, and will continue to suffer
11 irreparable harm, including the loss of their constitutional rights, entitling them to
12 declaratory and injunctive relief and nominal damages.

13 **FOURTH CLAIM FOR RELIEF**

14 **VIOLATION OF THE NO PREFERENCE CLAUSE OF**
15 **THE CALIFORNIA CONSTITUTION**

16 **(By All Plaintiffs)**

17 171. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

18 172. Article I, Section IV of the California Constitution ("No Preference
19 Clause") guarantees the free exercise and enjoyment of religion without discrimination
20 or preference.

21 173. Because of the aforementioned policies, practices, and procedures, engaged
22 in under color of state law, Defendants have violated the No Preference Clause.

23 174. Defendants have intentionally, willfully, and without justification granted,
24 and continue to grant, preferential treatment to Muslim students because of their religion
25 in the enactment, implementation, and enforcement of the Anti-Islamophobia Initiative.

26 175. Defendants' sustained and detailed relationship with CAIR-SD conveys a
27 preference for a particular sectarian group and therefore an impermissible, government-
28 sponsored approval of, and preference for, Islam.

1 176. Consequently, Defendants’ policies, practices, and procedures send a clear
2 message to Plaintiffs that they are outsiders, not full members of the school and political
3 communities, and they send an accompanying message that Muslims are insiders,
4 favored members of the school and political communities.

5 177. Defendants’ policies, practices, and procedures also substantially harm the
6 ability of Plaintiffs CQE-SD and SDAAFE to accomplish their organizational goals,
7 which include advocating quality education for all students and eliminating
8 discrimination and inequality within the School District.

9 178. As a direct and proximate result of Defendants’ violation of the No
10 Preference Clause, Plaintiffs have suffered, are suffering, and will continue to suffer
11 irreparable harm, including the loss of their constitutional rights, entitling them to
12 declaratory and injunctive relief and nominal damages.

13 **FIFTH CLAIM FOR RELIEF**

14 **VIOLATION OF THE ESTABLISHMENT CLAUSE**

15 **OF THE CALIFORNIA CONSTITUTION**

16 **(By All Plaintiffs)**

17 179. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

18 180. Article I, Section IV of the California Constitution (“Establishment
19 Clause”) prohibits the government from making any law respecting an establishment of
20 religion.

21 181. Because of the aforementioned policies, practices, and procedures, engaged
22 in under color of state law, Defendants have violated the Establishment Clause.

23 182. The Anti-Islamophobia Initiative lacks a valid secular purpose, has the
24 primary effect of advancing and endorsing a religion and religious practices, and creates
25 excessive entanglement with religion.

26 183. Defendants’ collaboration with CAIR-SD lacks a valid secular purpose, has
27 the primary effect of inhibiting religion in favor of another religion, and creates
28 excessive entanglement with religion.

1 184. Consequently, Defendants’ actions send a clear message to Plaintiffs that
2 they are outsiders, not full members of the school and political communities because
3 they are not Muslim, and it sends an accompanying message that Muslims are insiders,
4 favored members of the school and political communities.

5 185. An objective observer will unquestionably perceive that the Anti-
6 Islamophobia Initiative is stamped with the School District’s seal of approval, which
7 places an undue influence on the minds and feelings on impressionable children.

8 186. Defendants’ policies, practices, and procedures also substantially harm the
9 ability of Plaintiffs CQE-SD and SDAAFE to accomplish their organizational goals,
10 which include advocating quality education for all students and eliminating
11 discrimination and inequality within the School District.

12 187. As a direct and proximate result of Defendants’ violation of the
13 Establishment Clause of the California Constitution, Plaintiffs have suffered, are
14 suffering, and will continue to suffer irreparable harm, including the loss of their
15 constitutional rights, entitling them to declaratory and injunctive relief and nominal
16 damages.

17 **SIXTH CLAIM FOR RELIEF**
18 **VIOLATION OF THE NO AID CLAUSE OF**
19 **THE CALIFORNIA CONSTITUTION**
20 **(By All Plaintiffs)**

21 188. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

22 189. Article XVI, Section V of the California Constitution (“No Aid Clause”)
23 prohibits a government agency from paying from any public fund or granting anything
24 to or in aid of any religious sect, church, creed, or sectarian purpose.

25 190. Because of the aforementioned policies, practices, and procedures, engaged
26 in under color of state law, Defendants have violated the No Aid Clause.

27 191. The Anti-Islamophobia Initiative grants a substantial and direct benefit of
28 protecting Muslim students, a particular religious group, and that benefit is unavailable

1 on an equal basis to other religious groups.

2 192. Defendants' official involvement with CAIR-SD has the direct, immediate,
3 and substantial effect of promoting and benefiting CAIR-SD's religious purposes.

4 193. Defendants' policies, practices, and procedures also substantially harm the
5 ability of Plaintiffs CQE-SD and SDAAFE to accomplish their organizational goals,
6 which include advocating quality education for all students and eliminating
7 discrimination and inequality within the School District.

8 194. As a direct and proximate result of Defendants' violation of the No Aid
9 Clause of the California Constitution, Plaintiffs have suffered, are suffering, and will
10 continue to suffer irreparable harm, including the loss of their constitutional rights,
11 entitling them to declaratory and injunctive relief and nominal damages.

12 **SEVENTH CLAIM FOR RELIEF**

13 **VIOLATION OF THE UNRUH CIVIL RIGHTS ACT**

14 **(By Plaintiffs Hasson, He, Hu, Steel, Steel & Velazquez)**

15 195. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

16 196. The Unruh Civil Rights Act ("Unruh Act"), codified as Section 51 of the
17 California Civil Code, entitles full and equal accommodations, advantages, and
18 privileges to all persons regardless of their religion.

19 197. The School District is a "business establishment" under the Unruh Act.

20 198. Because of the aforementioned policies, practices, and procedures, engaged
21 in under color of state law, Defendants have violated the Unruh Act.

22 199. Plaintiffs are not entitled to the accommodations, advantages, and
23 privileges associated with the Anti-Islamophobia Initiative.

24 200. Defendants have arbitrarily and intentionally discriminated against
25 Plaintiffs with full knowledge that their policies, practices, and procedures would benefit
26 Muslim students and prejudice Plaintiffs, who are non-Muslim.

27 201. As a direct and proximate result of Defendants' violation of the Unruh Act,
28 Plaintiffs have suffered, are suffering, and will continue to suffer irreparable harm,

1 entitling them to declaratory and injunctive relief and nominal damages.

2 **EIGHTH CLAIM FOR RELIEF**

3 **VIOLATION OF § 11135 OF THE CALIFORNIA GOVERNMENT CODE**

4 **(By All Plaintiffs)**

5 202. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

6 203. Under Section 11135 of the California Government Code, no person in
7 California may on the basis of religion be unlawfully denied the benefits of, or be
8 unlawfully subjected to discrimination under, any program or activity that receives any
9 financial assistance from the state.

10 204. The School District receives financial assistance from the state.

11 205. Because of the aforementioned policies, practices, and procedures, engaged
12 in under color of state law, Defendants have violated Section 11135 of the California
13 Government Code.

14 206. The Anti-Islamophobia Initiative discriminates against Plaintiffs by
15 denying them full and equal access to the Initiative's accommodations, advantages, and
16 privileges based on their religion and religious beliefs.

17 207. Through Defendants' outwardly neutral purpose of addressing bullying and
18 discrimination, they have expended time and resources establishing policies, practices,
19 and procedures that benefit a particular sect without considering an equally effective
20 alternative program, thereby causing a significantly adverse and disproportionate impact
21 on Student Plaintiffs' protections against religiously motivated bullying.

22 208. Defendants' policies, practices, and procedures also substantially harm the
23 ability of Plaintiffs CQE-SD and SDAAFE to accomplish their organizational goals,
24 which include advocating quality education for all students and eliminating
25 discrimination and inequality within the School District.

26 209. As a direct and proximate result of Defendants' violation of Section 11135
27 of the California Government Code, Plaintiffs have suffered, are suffering, and will
28 continue to suffer irreparable harm, entitling them to declaratory and injunctive relief

1 and nominal damages.

2 **NINTH CLAIM FOR RELIEF**
3 **VIOLATIONS OF §§ 200 & 220 OF**
4 **THE CALIFORNIA EDUCATION CODE**
5 **(By All Plaintiffs)**

6 210. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

7 211. Sections 200 and 220 of the California Education Code specifically prohibit
8 discrimination based on religion. Under these Sections, an educational institution that
9 receives, or benefits from, state financial assistance in any program or activity cannot
10 discriminate against any person because of that person's religion or religious beliefs.

11 212. Because of the aforementioned policies, practices, and procedures, engaged
12 in under color of state law, Defendants have violated Sections 200 and 220 of the
13 California Education Code.

14 213. Because Plaintiffs are non-Muslim, Defendants have denied Plaintiffs
15 equal accommodations, advantages, and privileges associated with the Anti-
16 Islamophobia Initiative, while Muslim students exclusively enjoy those rights.

17 214. Defendants' discriminatory policies, practices, and procedures have
18 created, and will continue to create, a hostile environment for Student Plaintiffs, and
19 have jeopardized, and will continue to jeopardize, Student Plaintiffs' opportunity for
20 equal education.

21 215. Defendants' policies, practices, and procedures also substantially harm the
22 ability of Defendants CQE-SD and SDAAFE to accomplish their organizational goals,
23 which include advocating quality education for all students and eliminating
24 discrimination and inequality within the School District.

25 216. As a direct and proximate result of Defendants' violation of Sections 200
26 and 220 of the California Education Code, Plaintiffs have suffered, are suffering, and
27 will continue to suffer irreparable harm, entitling them to declaratory and injunctive
28 relief and nominal damages.

TENTH CLAIM FOR RELIEF

VIOLATION OF § 51500 OF THE CALIFORNIA EDUCATION CODE

(By All Plaintiffs)

217. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

218. Section 51500 of the California Education Code prohibits school districts from sponsoring any activity that promotes a discriminatory bias on the basis of religion.

219. Because of the aforementioned policies, practices, and procedures, engaged in under color of state law, Defendants have violated Section 51500 of the California Education Code.

220. The Anti-Islamophobia Initiative promotes a discriminatory bias against non-Muslim students on the basis of their religion.

221. Defendants have permitted CAIR-SD to advance its organizational objectives within the School District, including the proselytization and indoctrination of students, which promotes a discriminatory bias against Plaintiffs on the basis of their religion.

222. Defendants’ policies, practices, and procedures also substantially harm the ability of Plaintiffs CQE-SD and SDAAFE to accomplish their organizational goals, which include advocating quality education for all students and eliminating discrimination and inequality within the School District.

223. As a direct and proximate result of Defendants’ violation of § 51500 of the California Education Code, Plaintiffs have suffered, are suffering, and will continue to suffer irreparable harm, entitling them to declaratory and injunctive relief and nominal damages.

ELEVENTH CLAIM FOR RELIEF

VIOLATION OF § 51501 OF THE CALIFORNIA EDUCATION CODE

(By All Plaintiffs)

224. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

225. Section 51501 of the California Education Code prohibits school districts

1 from adopting textbooks or other instructional materials for use in public schools if they
2 contain any matter reflecting adversely upon persons on the basis of religion.

3 226. Because of the aforementioned policies, practices, and procedures, engaged
4 in under color of state law, Defendants have violated Section 51501 of the California
5 Education Code.

6 227. Defendants have adopted, distributed, and disseminated instructional
7 materials created, published, and provided by a CAIR-CA, an Islamic advocacy
8 organization, which reflects adversely upon Plaintiffs and their sincerely held religious
9 beliefs.

10 228. Defendants have adopted, distributed, and disseminated instructional
11 materials created, published, and provided by CAIR-CA, whose organizational activities
12 include disparaging Judaism, de-legitimizing Israel's right to exist, and adversely
13 demonizing Jewish people.

14 229. CAIR's contribution to school curricula to portray Islam and Muslim
15 culture more favorably will result in biased and inaccurate information about important
16 historical concepts, including concepts about the relationship between the Muslim world
17 and Israel.

18 230. CAIR's longstanding ties to Islamic extremist groups such as Hamas,
19 which is opposed to Jewish statehood and which calls for the elimination of all Jews,
20 will adversely affect the objectivity and accuracy of instructional materials related to
21 important historical issues such as the relationship between the Muslim world and Israel.

22 231. Defendants' policies, practices, and procedures also substantially harm the
23 ability of Plaintiffs CQE-SD and SDAAFE to accomplish their organizational goals,
24 which include advocating quality education for all students and eliminating
25 discrimination and inequality within the School District.

26 232. As a direct and proximate result of Defendants' violation of Section 51501
27 of the California Education Code, Plaintiffs have suffered, are suffering, and will
28 continue to suffer irreparable harm, entitling them to declaratory and injunctive relief

1 and nominal damages.

2 **TWELTH CLAIM FOR RELIEF**

3 **VIOLATION OF § 60044 OF THE CALIFORNIA EDUCATION CODE**

4 **(By All Plaintiffs)**

5 233. Plaintiffs hereby incorporate by reference all above-stated paragraphs.

6 234. Section 60044 of the California Education Code prohibits a governing
7 board from adopting any instructional materials for use in the schools that, in its
8 determination, contain any matter adversely reflecting upon persons on the basis of
9 religion or any sectarian or denominational doctrine or propaganda contrary to law.

10 235. Because of the aforementioned policies, practices, and procedures, engaged
11 in under color of state law, Defendants have violated Section 60044 of the California
12 Education.

13 236. The School District has accepted, adopted, and distributed instructional
14 materials published and provided by CAIR-CA and CAIR-SD that contain
15 denominational doctrine and propaganda.

16 237. The School District has accepted, adopted, and distributed materials
17 published and provided by CAIR-CA and CAIR-SD, both of which are sectarian
18 advocacy groups that demonstrate hostility to, and disparagement of, other persons,
19 religions, and religious beliefs, including Judaism and Jewish culture.

20 238. Defendants’ policies, practices, and procedures also substantially harm the
21 ability of Plaintiffs CQE-SD and SDAAFE to accomplish their organizational goals,
22 which include advocating quality education for all students and eliminating
23 discrimination and inequality within the School District.

24 239. As a direct and proximate result of Defendants’ violation of Section 60044
25 of the California Education Code, Plaintiffs have suffered, are suffering, and will
26 continue to suffer irreparable harm, including the loss of their constitutional rights,
27 entitling them to declaratory and injunctive relief and nominal damages.

28 ///

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully ask this Court to:

1. Declare that Defendants have violated the First and Fourteenth Amendments to the United States Constitution, as set forth in this Complaint;

2. Declare that Defendants have violated the California Constitution, as set forth in this Complaint;

3. Declare that Defendants have violated the Unruh Civil Rights Act, as set forth in this Complaint;

4. Declare that Defendants have violated the California Government Code, as set forth in this Complaint;

5. Declare that Defendants have violated the California Education Code, as set forth in this Complaint;

6. Preliminarily enjoin Defendants from enacting, implementing, and enforcing the unconstitutional policies, practices, and procedures of the Anti-Islamophobia Initiative;

7. Permanently enjoin Defendants, in their official capacity, and their successors in office, and all their respective agents, employees, and others in active concert with them, from enacting, implementing, and enforcing the unconstitutional policies, practices, and procedures of the Anti-Islamophobia Initiative;

8. Preliminarily enjoin Defendants from engaging in any partnerships or associations whatsoever with the Council on American-Islamic Relations and its chapters, including CAIR-SD;

9. Permanently enjoin Defendants from engaging in any partnerships or association whatsoever with the Council on American-Islamic Relations and its chapters, including CAIR-SD;

10. Award Plaintiffs nominal damages against all Defendants;

11. Award Plaintiffs their reasonable attorneys' fees, costs, and expenses under 42 U.S.C. § 1988, Cal. Civ. Code § 52, Cal. C.C.P. § 1021.5, and other applicable law;

1 12. Grant such other and further relief as this Court finds just and proper.
2

3 **DEMAND FOR JURY TRIAL**

4 Plaintiffs hereby demand a trial by jury of all triable issues.
5

6 Respectfully submitted,

7 FREEDOM OF CONSCIENCE DEFENSE FUND
8

9 Dated: June 28, 2017

By: /s/ Charles S. LiMandri
10 Charles S. LiMandri
11 Paul M. Jonna
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14 Attorneys for PLAINTIFFS
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