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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE**

MAE M., through her guardian ad litem
Anthony M., SUSAN C., through her guardian
ad litem Sabrina C., GWEN S., through their
guardian ad litem Ramona S., CARSON L.,
through his guardian ad litem Nancy L.,
DAVID P., through his guardian ad litem
RACHEL P., VIOLET B., through her guardian
ad litem INEZ B., STELLA B., through her
guardian ad litem INEZ B., TEMECULA
VALLEY EDUCATORS ASSOCIATION,
AMY EYTCHISON, KATRINA MILES,
JENNIFER SCHARF, and DAWN SIBBY,

Plaintiffs,

v.

JOSEPH KOMROSKY, JENNIFER
WIERSMA, DANNY GONZALEZ, ALLISON
BARCLAY, and STEVEN SCHWARTZ, in
their official capacities as members of
TEMECULA VALLEY UNIFIED SCHOOL
DISTRICT BOARD OF TRUSTEES,
TEMECULA VALLEY UNIFIED SCHOOL
DISTRICT, and DOES 1 – 20,

Defendants.

Case No.: **CVSW2306224**

CIVIL COMPLAINT

UNLIMITED JURISDICTION

JURY DEMANDED

1 **PRELIMINARY STATEMENT**

2 1. This lawsuit challenges actions taken by the Temecula Valley Unified School District
3 (“TVUSD”) Board of Trustees (the “Board”) to censor Temecula educators and infringe on Temecula
4 schoolchildren’s fundamental right to an education, causing them irreparable harm.

5 2. On December 13, 2022, the Board enacted Resolution No. 2022-23/21
6 (“Resolution 21” or the “Resolution”), which prohibits the teaching of a sweeping and ill-defined
7 range of content referred to as “Critical Race Theory or other similar frameworks.”¹ The vague
8 Resolution hinders Temecula educators’ ability to teach State-mandated content standards, prepare
9 for the coming academic year, and support rather than stifle student inquiry. In turn, Temecula
10 students are deprived of the opportunity to engage in factual investigation, freely discuss ideas, and
11 develop critical thinking and reasoning skills. While harming all schoolchildren, the Resolution in
12 particular injures children of color and LGBTQ children, stigmatizing their identities, histories, and
13 cultures.

14 3. The Board’s actions violate California constitutional and statutory provisions securing
15 the right to education and to receive information, the right to due process, and the right to be free
16 from discrimination on the basis of race, sex, and sexual orientation.

17 4. To prevent these irreparable harms, Plaintiffs—the Temecula Valley Educators
18 Association, as well as individual Temecula teachers, students, and parents—seek an Order declaring
19 that the Resolution is unconstitutional and unlawful, and enjoining the Board from implementing or
20 enforcing it.²

21
22
23 ¹ TVUSD, Resol. No. 2022-23/21, Resolution of the Board of Trustees of TVUSD Prohibiting the
24 Teaching of Critical Race Theory (2022) [hereinafter Resol. 21]. A copy of Resolution 21 is attached
25 to this Complaint as Exhibit 1. Although it includes a “DRAFT” watermark, the Exhibit is the final
26 adopted version. TVUSD, Regular Meeting of the Board of Trustees of the Temecula Valley Unified
27 School District | 12/13/2022 - 04:00 PM, Meeting Minutes (Dec. 13, 2022),
28 https://simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030186&MID=16350

² Plaintiffs’ counsel sent a demand letter to the Board and its counsel on June 28, 2023. On July 5,
Board counsel replied that the Board intended to discuss the matter at its July 18 meeting, after which
Board counsel would respond substantively to Plaintiffs’ demand. As of August 1, Plaintiffs have
received no further communication from Board counsel, and thus seek relief through this lawsuit.

1 **BACKGROUND**

2 5. Public schools “are the nurseries of democracy.”³ The schoolhouse is where children
3 first encounter a broad range of ideas and perspectives and, in learning to assess their relative merits,
4 acquire the critical thinking skills necessary for meaningful participation in civic and economic life.
5 The State of California and the nation’s highest courts have underscored that education is the
6 “foundation of good citizenship,” critical to “the performance of our most basic public
7 responsibilities” in a democracy.⁴

8 6. Recognizing that public schools ensure “the preservation of the rights and liberties of
9 the people,”⁵ the framers of this State’s Constitution enshrined education as a fundamental right for
10 all Californians.⁶ As the California Supreme Court explained, education is the prerequisite to
11 “participation in,” and therefore the overall “functioning of, a democracy.”⁷ Like voting, education is
12 “a fundamental right because it is ‘preservative of other basic civil and political rights.’”⁸

13 7. In light of the foundational role that education plays in our democracy, courts have
14 vigilantly guarded students’ right to receive information against partisan and racially discriminatory
15 “laws that cast a pall of orthodoxy over the classroom.”⁹ As the Supreme Courts of the United States
16 and California have repeatedly emphasized, freedom of inquiry is “nowhere more” paramount than in
17 public schools,¹⁰ because “[t]he classroom is peculiarly the ‘marketplace of ideas.’ The Nation’s
18 future depends upon leaders trained through wide exposure to that robust exchange of ideas which
19

20 ³ *Mahanoy Area Sch. Dist. v. B. L. ex rel. Levy*, 141 S. Ct. 2038, 2046 (2021).

21 ⁴ *Serrano v. Priest*, 5 Cal. 3d 584, 606 (1971) (quoting *Brown v. Bd. of Educ.*, 347 U.S. 483, 493
22 (1954)).

23 ⁵ Cal. Const. art. IX, § 1.

24 ⁶ *Serrano*, 5 Cal. 3d at 605–09; *Butt v. State of California*, 4 Cal. 4th 668, 681, 683, 685–88, 692
(1992).

25 ⁷ *Id.* at 607.

26 ⁸ *Id.* at 608 (quoting *Reynolds v. Sims*, 377 U.S. 533, 562 (1964)).

27 ⁹ *White v. Davis*, 13 Cal. 3d 757, 769 (1975) (quoting *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603
(1967)).

28 ¹⁰ *Id.* (quoting *Shelton v. Tucker*, 364 U.S. 479, 487 (1960)).

1 discovers truth ‘out of a multitude of tongues, (rather) than through any kind of authoritative
2 selection.’”¹¹ Courts have thus struck down school officials’ attempts to restrict access to information
3 “in a narrowly partisan or political manner,” deeming it obvious that students’ rights would be
4 infringed, for example, “[i]f a Democratic school board, motivated by party affiliation, ordered the
5 removal of all books written by or in favor of Republicans,” or “if an all-white school board,
6 motivated by racial animus, decided to remove all books authored by blacks or advocating racial
7 equality and integration.”¹²

8 8. Nearly 40 years ago, the California Supreme Court presciently observed that, “[w]ith
9 the rise of the electronic media and the development of sophisticated techniques of political
10 propaganda and mass marketing, education plays an increasingly critical role in fostering ‘those
11 habits of open-mindedness and critical inquiry which alone make for responsible citizens[.]’”¹³
12 Educators need the latitude to model curiosity and freedom of thought through “precept and
13 practice,” so that “the very atmosphere . . . they generate” invites students to consider and debate
14 competing viewpoints.¹⁴

15 9. Learning is stymied, however, where the conditions for robust inquiry are denied.¹⁵

16 10. Resolution 21, enacted by a 3–2 vote of the TVUSD Board of Trustees, effects just
17 such a denial.¹⁶ As the first major action by the Board’s newly elected majority, the Resolution
18 follows an openly ideological campaign “to stop the indoctrination of . . . children by placing
19 candidates on school boards who will fight for Christian and Conservative values.”¹⁷

21 ¹¹ *Keyishian*, 385 U.S. at 603 (quoting *United States v. Associated Press*, 52 F. Supp. 362, 372
22 (S.D.N.Y. 1943), *aff’d*, 326 U.S. 1 (1945)); *White*, 13 Cal. 3d at 769 (same).

23 ¹² *Bd. of Educ. v. Pico*, 457 U.S. 853, 870–71 (1982).

24 ¹³ *Hartzell v. Connell*, 35 Cal. 3d 899, 908 (1984) (quoting *Wieman v. Updegraff*, 344 U.S. 183, 196
(1952) (Frankfurter, J., concurring)).

25 ¹⁴ *Wieman*, 344 U.S. at 196 (Frankfurter, J., concurring).

26 ¹⁵ *Id.*

27 ¹⁶ Resol. 21, *supra* note 1.

28 ¹⁷ Inland Empire Fam. PAC [hereinafter IEF PAC], *Home* (2023), <https://iefamilypac.org/>, archived
at <https://perma.cc/34ET-7L9Q>.

1 11. Resolution 21, attached in its entirety as Exhibit 1, violates constitutional mandates by
2 discriminating on the basis of viewpoint, prohibiting the teaching of “topics related to race” through
3 the lens of “Critical Race Theory or other similar frameworks.”¹⁸ To the extent such ideas may be
4 introduced at all, the Resolution commands teachers to “focus[] on [their] flaws.”¹⁹ Although the
5 Resolution is framed as a ban on “Critical Race Theory,”²⁰ that term has been deployed by the Board
6 as a catchall for concepts as varied as race and systemic racism;²¹ sex and sex discrimination; gender
7 identity; sexual orientation; diversity, equity, and inclusion; implicit bias; culturally responsive
8 education; and social emotional learning.²² Teachers are thus left to guess at which topics they can
9 teach and what questions they can answer.

10 12. Resolution 21 imposes severe, even career-ending penalties on teachers who introduce
11 ideas that could arbitrarily be seen as questioning the viewpoints endorsed by members of the
12 Board.²³ Its effects have been far-reaching and immediate. In addition to delaying the adoption of
13 State standards-compliant history and social studies instruction for the coming year, the Resolution
14

15 ¹⁸ Resol. 21, *supra* note 1.

16 ¹⁹ *Id.*

17 ²⁰ Black’s Law Dictionary defines “critical race theory” as “[a] reform movement within the legal
18 profession, particularly within academia, whose adherents believe that the legal system has
19 disempowered racial minorities.” *Black’s Law Dictionary* (11th ed. 2019). Critical race theory,
20 according to one court, “challenges the universality of white experience/judgment as the authoritative
21 standard.” *Benner v. St. Paul Pub. Sch., I.S.D. #625*, 380 F. Supp. 3d 869, 876 (D. Minn. 2019).

22 ²¹ Systemic racism is racism “embedded in laws, policies[,] and institutions that uphold and
23 reproduce racial inequalities.” NAACP Legal Defense Fund, *Critical Race Theory Frequently Asked
24 Questions* (2023), <https://www.naacpldf.org/critical-race-theory-faq/>.

25 ²² *See, e.g.,* Maya King, *Could a School-Board Fight Over Critical Race Theory Help Turn Virginia
26 Red?*, Politico (July 7, 2021) (“Across the country, critical race theory—a legal/academic framework
27 Republicans have conflated to define all race and gender-based equity work in public schools—is
28 shaping fights in a number of suburban jurisdictions.”).

29 ²³ TVUSD Resolution No. 2022-23/20 (“Resolution 20”) references regulations “which impose
30 sanctions on any . . . employee who engages in racist conduct.” Read in tandem with Resolution 21,
31 which was passed concurrently and which characterizes “Critical Race Theory” as “a racist ideology”
32 (and, by extension, the teaching of “Critical Race Theory or other similar frameworks” as “racist
33 conduct”), Resol. 21, *supra* note 1, Resolution 20 delineates the sanctions applicable to teachers who
34 violate Resolution 21.

1 has already, and predictably, chilled teaching across the District. Teachers attempting to comply with
2 State standards are confronting numerous questions for which the Resolution’s indeterminate
3 provisions have no answer. For example:

- 4 ○ Can a U.S. History teacher facilitate a discussion—as the California History-Social
5 Science Framework instructs—on the question: “Did the Civil Rights Movement
6 succeed?”²⁴
- 7 ○ Can a U.S. History teacher draw parallels between nineteenth century nativism and efforts
8 to repatriate Mexican- and Filipino-Americans during the Great Depression,²⁵ or the
9 passage of Proposition 187 in 1994?²⁶
- 10 ○ Can a U.S. Government teacher, when asked about the role of race in police officers’ use
11 of excessive force, explore with the class the history of police violence against African-
12 Americans and its impact on the Civil Rights Movement and today’s social movements?²⁷
- 13 ○ Can a U.S. Government teacher discuss evidence of anti-Japanese animus in *Korematsu v.*
14 *United States* or present-day examples of government discrimination against particular
15 groups?²⁸

14 ²⁴ Cal. Dep’t of Educ., *California History-Social Science Framework* [hereinafter HSS Framework]
15 414 (2016), <https://www.cde.ca.gov/ci/hs/cf/documents/hssframeworkwhole.pdf>. In this Complaint,
16 California’s history and social science content standards and framework are referred to collectively as
17 the “HSS curriculum.”

17 ²⁵ See Cal. Dep’t of Educ., *California History-Social Science Content Standards* [hereinafter HSS
18 Standards] 39 (1998), <https://www.cde.ca.gov/be/st/ss/documents/histsocscistnd.pdf> (requiring eighth
19 graders to be able to “discuss the new wave of nativism” in response to the Industrial Revolution);
20 HSS Framework at 276 (eighth graders “study the social, economic, and political barriers
21 encountered by both immigrants and American citizens of Mexican ancestry,” including “the Chinese
22 Exclusion Act (1882) and the Immigration Act of 1917”); *id.* at 399 (describing “repatriation drives”
23 as an outgrowth of economic crisis).

21 ²⁶ *E.g.*, HSS Framework at 91 (describing how the passage of Proposition 187 “to deny all social
22 services to undocumented residents,” along with Proposition 63 to establish English as California’s
23 “official language,” led to “an unwelcome environment for immigrants to” the State).

23 ²⁷ See *id.* at 418 (describing “police violence against African Americans” as a catalyst for strategic
24 change in the Civil Rights Movement); *id.* at 780 (“Citizens are often confronted with compelling
25 questions related to civics . . . such as . . . Is police use of deadly force compatible with due
26 process?”).

26 ²⁸ See *id.* at 445 (calling for “critical reading of [decisions including] *Korematsu v. United States*” to
27 “remind students that racial discrimination affected” Asian Americans); *id.* at 405 (Executive Order
28 9066 “violated [Japanese Americans’] constitutional and human rights”); HSS Standards at 50–51
(requiring students to be able to discuss “constitutional issues . . . including the internment of
Japanese Americans (e.g., *Fred Korematsu v. United States of America*)”).

1 13. The Resolution’s vague language provides no answers. Instead, it imposes another,
2 unconstitutional burden on educators still recovering from the unprecedented challenges of teaching
3 through a global pandemic. At a time when California school districts—including Temecula²⁹—are
4 struggling to recruit and retain qualified teachers,³⁰ the Board has threatened those who remain with
5 the loss of their livelihood if they interpret the Resolution’s vague and sweeping proscriptions
6 differently than the Board might later arbitrarily dictate. Unsurprisingly, teachers have steered clear
7 of any topic or classroom conversation that could be construed as conflicting with the Board’s
8 partisan viewpoint.

9 14. This result, a classic chilling effect, is no accident. All three of the new Board
10 members—Joseph Komrosky (the Resolution’s sponsor), Jennifer Wiersma, and Danny Gonzalez—
11 were backed by the Inland Empire Family PAC (“IEF PAC”), which drove a concerted effort to flip
12 school boards across Southwest Riverside County in November 2022.³¹ Led by Tim Thompson, a
13 pastor of the 412 Church,³² the IEF PAC

14 began in 2017 when parents got a copy of a Comprehensive sex education curriculum
15 that was taught in a Temecula Valley classroom. This bold indoctrination forced many
16 into action Much has changed since then and the threats have increased. Critical
17 Race Theory, state mandates and the sexualization of our children are now national
18 issues.³³

19 15. At the beginning of the 2022 campaign season, the IEF PAC held an “endorsement

20 ²⁹ TVUSD, Regular Meeting of the Board of Trustees of the Temecula Valley Unified School District
21 | 05/16/2023 - 04:00 PM, Meeting Minutes (May 16, 2023), [https://simbli.eboardsolutions.com/
22 SB_Meetings/ViewMeeting.aspx?S=36030186&MID=19903](https://simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030186&MID=19903) (recording passage of “Declaration of
23 Need for Fully Qualified Educators for the 2023/2024 school year”).

24 ³⁰ Hart Rsch. Assocs., *Voices from the Classroom: Developing a Strategy for Teacher Retention and
25 Recruitment* 3 (2022), [https://www.cta.org/wp-content/uploads/2022/09/Voices-from-the-Classroom-
26 CTA-Survey-Report.pdf](https://www.cta.org/wp-content/uploads/2022/09/Voices-from-the-Classroom-CTA-Survey-Report.pdf).

27 ³¹ IEF PAC, *Meet the Candidates* (2023), <https://iefamilypac.org/meet-the-candidates/>, *archived at*
28 <https://perma.cc/QD9W-N56U>.

³² 412 Temecula Valley, *Pastor Tim Thompson | Senior Pastor* (2023), [https://412temecula.com/
staff/pastortim/](https://412temecula.com/staff/pastortim/), *archived at* <https://perma.cc/UFF6-ADBA>.

³³ IEF PAC, *supra* note 17.

1 draft,” a riff on the NFL draft.³⁴ Hosting the event, Thompson condemned the public school system
2 as “Satan’s playground.”³⁵ Onstage with Thompson, the future Board members denounced racial
3 equity and LGBTQ rights,³⁶ echoing the IEF PAC’s website, which describes “The Problem In
4 Schools” as being “Growing Indoctrination,” “Critical Race Theory,” “Forced LGBTQ+
5 Acceptance,” “Perverted Sexual Training,” and “Transgenderism Encouraged.”³⁷

6 16. Once in office, the new Board members rushed to enact the Resolution, disregarding
7 District policies and procedures,³⁸ ignoring community concerns, and dismissing the expertise of
8 Temecula’s educators. Shortly after enacting the Resolution, Defendants Komrosky and Wiersma
9 appeared on national news, touting the new measure and calling for “boots on the ground” to monitor
10 “what’s going on in the classrooms.”³⁹ During the segment, Komrosky promised enforcement against
11 “rogue teachers” allegedly engaged in “manipulation, brainwashing, and indoctrination.”⁴⁰

12 17. Opposition to the Resolution has galvanized a large-scale student movement in
13 Temecula. Following a strong presence opposing the Resolution at the December 13 Board meeting,
14 TVUSD high school students organized multiple demonstrations.⁴¹ At Great Oak High School,
15

16 ³⁴ Our Watch, *ie Family PAC Draft – Meet school board candidates of Menifee, Temecula, Murrieta,*
17 *and Lake Elsinore*, YouTube (Mar. 2, 2022) [hereinafter IEF PAC Draft], [https://www.youtube.com/](https://www.youtube.com/watch?v=7wEBdcbRUng)
18 [watch?v=7wEBdcbRUng](https://www.youtube.com/watch?v=7wEBdcbRUng).

19 ³⁵ *Id.* at 0:37:35, <https://youtu.be/7wEBdcbRUng?t=2255>.

20 ³⁶ *See* IEF PAC Draft, *supra* note 34.

21 ³⁷ IEF PAC, *supra* note 17.

22 ³⁸ *Infra* paras. 124–129.

23 ³⁹ *California school board votes to ban CRT*, Fox News (Dec. 18, 2022), [https://www.foxnews.com/](https://www.foxnews.com/video/6317456791112)
24 [video/6317456791112](https://www.foxnews.com/video/6317456791112).

25 ⁴⁰ *Id.*

26 ⁴¹ *E.g.*, Allyson Vergara, *Temecula students walk out in protest of new critical race theory ban*,
27 *Press-Enterprise* (Dec. 16, 2022), [https://www.pressenterprise.com/2022/12/16/temecula-students-](https://www.pressenterprise.com/2022/12/16/temecula-students-walk-out-in-protest-of-new-critical-race-theory-ban/)
28 [walk-out-in-protest-of-new-critical-race-theory-ban/](https://www.pressenterprise.com/2022/12/16/temecula-students-walk-out-in-protest-of-new-critical-race-theory-ban/). The Resolution’s supporters have targeted
student leaders and their families on an anonymous website and on social media. We the Parents of
Temecula, (2023), <https://www.wetheparentsoftemecula.com/>, *archived at* [https://perma.cc/85MJ-](https://perma.cc/85MJ-6BL3)
[6BL3](https://perma.cc/85MJ-6BL3); We the Parents and Teachers of TVUSD, Instagram (2023), [https://www.instagram.com/](https://www.instagram.com/we_the_parents_tvusd/)
[we_the_parents_tvusd/](https://www.instagram.com/we_the_parents_tvusd/).

1 approximately 350 students protested the Resolution, bearing signs that read “Protect Our
2 Education,” “Teach the Truth,” and “Do Not Censor.”⁴² Sienna Andrade, the student body co-
3 president, told the Press-Enterprise that the Resolution “censor[ed] history,” and underscored that the
4 protest was part of “a student-run movement . . . to stand up for what we believe in. We have the
5 right to make change and have our voices heard.”⁴³

6 18. The demonstrations included a coordinated walkout on January 13, 2023, which
7 brought together upwards of 650 students from Temecula’s three comprehensive high schools, along
8 with parents and other community supporters.⁴⁴ Amidst signs reading “TVHS Students Will Not Be
9 Silenced” and “Listen to Student Voices,” student protesters chanted “Teach all history!” and voiced
10 concerns about the Resolution “censor[ing] their education and that of younger students, while
11 affecting the representation and safety of students of color and LGBTQ students.”⁴⁵

24
25 ⁴² Vergara, *supra* note 41.

26 ⁴³ *Id.*

27 ⁴⁴ Allyson Vergara, *Temecula students walk out to protest critical race theory ban*, Press-Enterprise
(Jan. 13, 2023), <https://www.pressenterprise.com/2023/01/13/temecula-students-walk-out-to-protest-critical-race-theory-ban/>.

28 ⁴⁵ *Id.*

1 **Figure 1: Great Oak High School students protest the Resolution, December 16, 2022.**⁴⁶



12 19. Notwithstanding this community and student pushback, the Board redoubled its efforts
13 in March 2023, approving the expenditure of \$15,000 of District monies to hire Christopher Arend,
14 who originally authored several of the Resolution’s provisions and who has made multiple statements
15 denying the existence of systemic racism and employing pernicious racial stereotypes, as a consultant
16 to train TVUSD staff.⁴⁷

17 20. On March 22, the Board held an “expert panel workshop” to “raise awareness of CRT
18 and the various tenants [sic] associated with it.”⁴⁸ Although promoted as an opportunity for “[t]he
19

20 ⁴⁶ MediaNews Group/The Riverside Press-Enterprise via Getty Images.

21 ⁴⁷ TVUSD, *Regular Meeting of the Board of Trustees of the Temecula Valley Unified School District*
22 *03/14/2023 0:400 PM, Item O.2 Consultant Agreement: Arend Law Firm* (Mar. 14, 2023), [https://](https://simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030186&MID=19013)
23 simbli.eboardsolutions.com/SB_Meetings/ViewMeeting.aspx?S=36030186&MID=19013. Because
24 the District needed to hire substitute teachers to cover for staff attending the trainings, union
25 president Diaz estimated a true cost to the District of up to \$30,000. Nova Blanco-Rico, *Critical race*
26 *theory consultant hired for \$15,000 by Temecula school board*, Press-Enterprise (Mar. 15, 2023),
27 [https://www.pressenterprise.com/2023/03/15/critical-race-theory-consultant-hired-for-15000-by-](https://www.pressenterprise.com/2023/03/15/critical-race-theory-consultant-hired-for-15000-by-temecula-school-board/)
28 [temecula-school-board/](https://www.pressenterprise.com/2023/03/15/critical-race-theory-consultant-hired-for-15000-by-temecula-school-board/).

29 ⁴⁸ Press Release, TVUSD, *Temecula Valley Unified School District Governing Board Hosts Expert*
30 *Panel Workshop* (Mar. 10, 2023), [https://www.tvusd.k12.ca.us/site/default.aspx?PageType=3](https://www.tvusd.k12.ca.us/site/default.aspx?PageType=3&DomainID=8346&ModuleInstanceID=59378&ViewID=6446EE88-D30C-497E-9316-)
31 [&DomainID=8346&ModuleInstanceID=59378&ViewID=6446EE88-D30C-497E-9316-](https://www.tvusd.k12.ca.us/site/default.aspx?PageType=3&DomainID=8346&ModuleInstanceID=59378&ViewID=6446EE88-D30C-497E-9316-)

1 public . . . to hear diverse viewpoints” from “a diverse panel of experts,”⁴⁹ the panelists were Arend
2 and five other partisan commentators.⁵⁰ The meeting devolved into chaos after a white attendee told
3 Deon Hairston—a Black teacher who criticized the Resolution during public comment—to “get out
4 of the country,” and Defendant Komrosky first responded by ejecting Hairston rather than his
5 heckler.⁵¹

6 21. The Board members’ desire to impose their ideological viewpoints on Temecula’s
7 students led to a months-long delay in adopting—as well as selective censorship of—grades 1–5
8 history and social science curricula and instructional materials.⁵² Flouting its own codified and
9 customary policies and procedures, the Board spurned the expertise of District leaders and a
10 committee of 47 teachers representing all of TVUSD’s elementary sites who piloted the
11 recommended materials during the 2022–23 academic year. After first declining even to vote on the

12 _____
13 3F8874B3E108&RenderLoc=0&FlexDataID=47602&PageID=23355, available at <https://perma.cc/UD82-MWJJ>.

14 ⁴⁹ *Id.*

15 ⁵⁰ Esther Valdes-Clayton, a San Diego immigration attorney and former Coronado Unified School
16 District Board member, moderated the panel. The remaining panelists were Arend, Wenyan Wu
17 (executive director of the Californians for Equal Rights Foundation, which attacks “Woke Culture”
18 that “often takes on euphemisms such as Diversity, Equity & Inclusion (DEI), Racial Justice,
19 Allyship, Critical Consciousness,” *Don’t Divide Us* (2023), <https://cferfoundation.org/>, archived at
20 <https://perma.cc/YK2N-WEEG>), Walter H. Myers, III (board member of the Discovery Institute,
21 which advocates for the teaching of “intelligent design” as an alternative to Darwinian evolution),
22 Joseph Nalven (anthropologist), and Brandy Shufutinsky (activist whose organization has called for
23 the removal of “one-sided, neo-Marxist” agendas from California’s ethnic studies model curriculum,
24 Alliance for Constructive Ethnic Studies, *Black Americans for Inclusive Ethnic Studies* (2023),
25 <https://www.calethstudies.org/ethnic-studies-black-americans-for-inclusive-ethnic-studies>, archived
26 at <https://perma.cc/6VL7-5DMT>).

27 ⁵¹ Khaleda Rahman, *Black Man Removed from School District’s CRT Event Speaks Out*, Newsweek
28 (Mar. 30, 2023), <https://www.newsweek.com/black-man-removed-crt-event-speaks-out-1791531>.

⁵² During debate, Defendant Komrosky voiced concern that adopting the District- and teacher-
endorsed materials would allow the insertion of critical race theory. TVUSD, *May 16, 2023, 6:00 PM*
- *Open Session - TVUSD Governing Board Meeting* [hereinafter May 16 Board Meeting] at 2:05:20,
YouTube (May 16, 2023), https://youtu.be/ABcKfZu7_pU?t=7520. As an alternative, Defendant
Wiersma referenced a Christian homeschool curriculum that does not remotely meet California’s
content standards. *See id.* at 1:47:25, https://youtu.be/ABcKfZu7_pU?t=6445.

1 District- and teacher-endorsed curricula and instructional materials,⁵³ the Board twice rejected them
2 outright.⁵⁴ Finally, less than a month before the beginning of the school year, the Board adopted
3 grades 1–5 history and social science curricula and instructional materials, but disallowed teachers
4 from introducing State-mandated information about the LGBTQ rights movement and leaders,
5 including Harvey Milk.⁵⁵

6 22. Most recently, the Board has called for the removal from school libraries of books that
7 express ideas with which members disagree. At the July 18 Board meeting, Defendant Komrosky
8 read a list of 16 books that “are in our libraries,” including *The Kite Runner* by Khaled Hosseini, *The*
9 *Bluest Eye* by Toni Morrison, and *Looking for Alaska* by John Green, before demanding to know
10 “who put these books [there].”⁵⁶ Defendant Gonzalez characterized the Board’s discussion as “an
11 attempt to be a little more proactive as a District” and asked whether “we can agree on some content
12 that we just absolutely would not allow.”⁵⁷ Gonzalez further proposed “flag[ging] books that may be
13 potentially having material that . . . would be objectionable,” as well as “man[ning]” a committee to
14

15
16 ⁵³ See TVUSD, *April 11, 2023 - 6:00 PM - Open Session - TVUSD Governing Board Meeting* at
17 2:48:49, YouTube (Apr. 11, 2023), https://youtu.be/AsN_hpJFLNI?t=10129 (noting removal of
18 agenda item).

19 ⁵⁴ May 16 Board Meeting at 2:14:30, https://youtu.be/ABcKfZu7_pU?t=8070; TVUSD, *July 18,*
20 *2023, 6:00 PM – Open Session – TVUSD Governing Board Meeting* [hereinafter July 18 Board
21 Meeting] at 4:48:16, YouTube (July 18, 2023), https://youtu.be/NN-Z_IcswqM?t=17296.

22 ⁵⁵ TVUSD, *JUL-21-2023 7:30 PM ◊ Special Meeting ◊ TVUSD Governing Board*, YouTube (July
23 21, 2023), <https://www.youtube.com/watch?v=yqY34hx2B3k>. California law requires school boards
24 to adopt only instructional materials that

25 accurately portray the cultural and racial diversity of our society, including: (a) The
26 contributions of both men and women in all types of roles, . . . (b) The role and
27 contributions of Native Americans, African Americans, Mexican Americans, Asian
28 Americans, Pacific Islanders, European Americans, lesbian, gay, bisexual, and
transgender Americans, persons with disabilities, and members of other ethnic and
cultural groups to the total development of California and the United States.

29 Cal. Educ. Code § 60040.

30 ⁵⁶ July 18 Board Meeting at 3:16:08, https://youtu.be/NN-Z_IcswqM?t=11768.

31 ⁵⁷ *Id.* at 3:19:17, https://youtu.be/NN-Z_IcswqM?t=11957.

1 determine which books to censor.⁵⁸

2 23. Nearly forgotten amidst the Board’s political grandstanding are the students and
3 teachers the Board ostensibly serves. Elementary school teachers—who typically devote three
4 months to planning their lessons under a new curriculum⁵⁹—have been given only 24 days to prepare
5 for the school year beginning August 14. Middle and high school teachers are also questioning
6 whether topics or materials in their courses could arbitrarily be found noncompliant and erring on the
7 side of exclusion. In June, the Board fired the District’s well-regarded and longstanding
8 superintendent,⁶⁰ voting to spend \$50,000 in District monies to retain an Illinois search firm.⁶¹ And
9 parents—many of whom moved to the District for the quality of its public schools—are now
10 considering uprooting their families so that their children can receive an education on par with that of
11 their peers elsewhere in the State.⁶²

12 PARTIES

13 EDUCATOR PLAINTIFFS

14 24. **Plaintiff Temecula Valley Educators Association (“TVEA”)** is a teachers’
15 union based in Temecula, California. It is an affiliate of the California Teachers Association.
16 TVEA represents TVUSD teachers, nurses, counselors, social workers, psychologists, and speech
17 pathologists. Neither the claims asserted nor the relief requested herein require the participation of
18 TVEA members.

19 25. Encompassing public education professionals at 18 elementary schools, six middle
20 schools, four high schools, and one adult school, TVEA advocates for over 1,325 members in
21 Temecula, Murrieta, and Winchester. TVEA members work, reside, and/or pay taxes in Riverside
22

23 ⁵⁸ *Id.* at 3:19:25, https://youtu.be/NN-Z_IcswqM?t=11975.

24 ⁵⁹ *See infra* para. 34.

25 ⁶⁰ Mallika Seshadri, *Temecula Valley school board fires superintendent Jodi McClay as protests*
26 *erupt outside*, EdSource (June 13, 2023), <https://edsource.org/2023/temecula-valley-school-board-fires-superintendent-jodi-mcclay-as-protests-erupt-outside/692340>.

27 ⁶¹ TVUSD, *June 27, 2023 - 6:00 PM - Open Session - TVUSD Governing Board Meeting*, YouTube
28 (June 27, 2023), <https://www.youtube.com/watch?v=n9AbxLIH6YA&t=359s>.

⁶² *See Butt*, 4 Cal. 4th at 685.

1 County. In total, they serve over 30,000 students in kindergarten through 12th grade.

2 26. By censoring ideas and modes of inquiry disfavored by certain Board members, the
3 Resolution has made it impossible for TVEA educators at every grade level to meet their professional
4 obligations to their students and teach the concepts mandated under State law and District policy. As
5 described *infra*, the Resolution has forced TVEA members to change their lesson plans; stop teaching
6 books that address racial and other forms of inequality; censor their instruction and answers to
7 student questions on standards-mandated topics; and limit classroom conversations to avoid being
8 reported.

9 27. Although TVEA has no way of parsing the Resolution’s vague language, it is having
10 to field countless questions from teachers and administrators regarding what they can and cannot
11 teach, and what questions they can and cannot answer, under the Resolution. Since December, the
12 vast majority of TVEA meetings have been dedicated to addressing the Resolution, and particularly
13 to supporting teachers who fear losing their livelihoods if they are accused of violating it.

14 28. Most recently, the Board significantly delayed the adoption of grades 1–5 history and
15 social science curricula and instructional materials, giving elementary school educators across the
16 District only 24 days to prepare for the coming year. The Board has also restricted use of the
17 materials it did adopt, excising information about the LGBTQ rights movement and its leaders from
18 classroom instruction.

19 29. TVEA has diverted significant organizational resources toward redressing the Board’s
20 actions. It has repeatedly sent representatives to Board meetings to underscore the harms being
21 suffered by teachers and students throughout the District. Using the hashtag #BlueTuesdays, it has
22 encouraged community members to attend Board meetings wearing blue in support of standards-
23 compliant curricula. It created a website, *Textbooks 4 Teaching*, to inform community members
24 about the need for standards-compliant instructional materials.⁶³ And it has organized multiple rallies
25
26

27 ⁶³ Temecula Valley Educators Association, *Textbooks 4 Teaching* (2023), [https://](https://tveducators.wixsite.com/tveacares/textbooks)
28 tveducators.wixsite.com/tveacares/textbooks, *archived at* <https://perma.cc/5YCP-SKD4>.

1 with the goal of moving the Board to act.⁶⁴

2 30. TVEA’s members include individual teacher **Plaintiffs Amy Eytchison, Katrina**
3 **Miles, Jennifer Scharf, and Dawn Sibby.**

4 31. **Plaintiff Amy Eytchison** is a 26-year veteran teacher in TVUSD. She currently
5 teaches fourth grade at Temecula Elementary School, where she has taught for the past 20 years. Ms.
6 Eytchison estimates that she has had over 600 students during her career in the District. She also
7 serves teachers throughout the District as TVEA’s Secretary, a role she has held for 10 years.

8 32. Nearly 65 percent of students at Temecula Elementary qualify for free or reduced
9 price meals—the highest rate of any elementary school in the District.⁶⁵ Over 82 percent identify as
10 multiracial or of color.⁶⁶ Ms. Eytchison has heard Board supporters claim that “we need to shield
11 children from hard topics like racial inequality.” But for Ms. Eytchison’s students, learning about
12 racial inequality is not a choice. It is a fact of their lived experience.

13 33. The Board’s actions undermine Ms. Eytchison’s ability to maintain trust with her
14 diverse students. She explains: “The Resolution prevents me from having honest conversations with
15 my students and building the relationships that are so important to my job. My students are not afraid
16 to ask hard questions, and they know whether I am being authentic. If I can’t speak with them
17 honestly, then what is my job?”

18 34. Ms. Eytchison has been harmed by the Board’s delayed adoption of a censored
19 elementary-level history and social science curriculum. She and her colleagues intended to begin
20 lesson planning for the 2023–24 school year in mid-May, following the expected approval of the
21 District- and teacher-endorsed curriculum. But until July 21, without knowing which (if any)

23 ⁶⁴ *E.g.*, Nova Blanco-Rico, *Temecula teachers, parents protest rejection of curriculum that mentions*
24 *Harvey Milk*, Press-Enterprise (June 6, 2023), <https://www.pressenterprise.com/2023/06/06/temecula-teachers-parents-protest-rejection-of-curriculum-that-mentions-harvey-milk/>.

25 ⁶⁵ Cal. Dep’t of Educ., *Unduplicated Student Poverty — Free or Reduced-Price Meals Data 2022–23*
26 (2023), <https://www.cde.ca.gov/ds/ad/documents/frpm2223.xlsx>.

27 ⁶⁶ Cal. Dep’t of Educ. Data Quest, *2022-23 Enrollment by Ethnicity, Temecula Elementary* (2023),
28 <https://dq.cde.ca.gov/dataquest/dqcensus/EnrEthLevels.aspx?cds=33751926108427&agglevel=School&year=2022-23>.

1 curriculum the Board would adopt, Ms. Eytchison had no way of preparing her history and social
2 science lessons. She must now scramble to complete them before classes resume on August 14.

3 35. More fundamentally, the Board’s actions have compromised Ms. Eytchison’s ability
4 to comply with State content standards. California expects fourth graders to learn about the State’s
5 history of movements for civil rights.⁶⁷ Topics of study include “the emergence of the nation’s first
6 gay rights organizations in the 1950s,” advocacy “for the right of gay men and women to teach” in
7 the 1970s, and the struggle for marriage equality in the 2000s, “culminating in the 2013 and 2015
8 U.S. Supreme Court decisions *Hollingsworth v. Perry* and *Obergefell v. Hodges*.”⁶⁸ Students are to
9 learn about contributions of leaders including Harvey Milk, “California’s first openly gay public
10 official.”⁶⁹ Ms. Eytchison can either comply with the Board’s directive (thereby failing to meet State
11 content standards), or teach the forbidden concepts (thereby jeopardizing her job).

12 36. These uncertainties have led Ms. Eytchison to experience anxiety in the classroom.
13 She is constantly asking herself, “Oh, can I say this? Can I not?” She and her fellow teachers feel
14 compelled to skirt around complex topics lest a student take offense.

15 37. **Plaintiff Katrina Miles** is a 20-year veteran teacher in TVUSD. She currently teaches
16 sixth grade English and Drama at Temecula Middle School, where she also advises the Black Student
17 Union. Ms. Miles’s son attends a middle school in the District.

18 38. Ms. Miles grew up in southeast Texas shortly after formal desegregation. Her mother
19 worked as a server in a white social club that did not allow Black people to be members. While
20 attending a segregated middle school, Ms. Miles found a lifeline in her sixth grade teacher, who
21 helped her overcome her family’s financial hardship and fostered a classroom environment that
22 “made [her] feel visible.” This experience inspired Ms. Miles to complete a master’s degree in
23 English and become a teacher. Her family later moved to San Diego, where Ms. Miles was bussed
24 daily to a predominantly white high school.

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26 _____
27 ⁶⁷ HSS Framework at 89.

28 ⁶⁸ *Id.* at 90.

⁶⁹ *Id.*

1 39. Ms. Miles attended Arend’s “training” hoping that he would parse the Resolution’s
2 broad language. Not only did Arend fail to clarify the Resolution, but his repeated assertion that
3 racism is no longer significant baffled Ms. Miles. As a Black woman, Ms. Miles knows the emotional
4 and psychological toll that both systemic and individual racism inflict on people of color.

5 40. The Board’s actions have already impacted the information available to students at
6 Ms. Miles’s school. For example, every year for the past six years, all of Temecula Middle School’s
7 sixth grade teachers taught their classes Mildred D. Taylor’s *Roll of Thunder, Hear My Cry*. But since
8 the Resolution, Ms. Miles—the school’s sole Black educator—has been the only teacher to keep the
9 book in her curriculum. Having personally experienced racial segregation, Ms. Miles knows how
10 important it is for students to understand that racial inequities are not confined to the distant past and
11 to develop compassion for people whose backgrounds are different from their own. Even though she
12 has taken pains to change the way she teaches the book—by, for example, avoiding using group
13 terms like “white” and giving only circumscribed answers when her students ask about anti-Black
14 violence—Ms. Miles fears she will face retaliation as a result of her decision. She wonders how the
15 Board’s actions will affect her son and her increasingly diverse classes of students.

16 41. **Plaintiff Jennifer Scharf** has been a Temecula resident and Great Oaks High School
17 teacher for 16 years. She is also the head of Great Oaks’s English Department. Ms. Scharf teaches
18 A.P. English Language and Composition, which enrolls mostly 10th graders, and 12th grade
19 Expository Reading and Writing. Both of Ms. Scharf’s children attend Great Oaks High School.

20 42. Ever since the Resolution’s enactment, Ms. Scharf has been inundated with questions
21 from members of her department about what books and ideas they can and cannot teach. For
22 example, multiple teachers have asked Ms. Scharf whether the Resolution permits them to continue
23 assigning Toni Morrison’s *Beloved*, a novel that deals with racial oppression and the traumas of
24 slavery. Because the Resolution’s language is so unclear, Ms. Scharf does not know how to respond.

25 43. For Ms. Scharf, the Resolution exemplifies a growing trend of ideological attempts to
26 remove books from Temecula’s classrooms. For example, the District in 2021 required A.P. English
27 Language and Composition teachers to stop teaching Rebecca Skloot’s *The Immortal Life of*
28 *Henrietta Lacks* after a parent complained that the book’s depiction of Ms. Lacks’s discovery of a

1 cervical tumor was “pornographic.” Recognizing the book’s value,⁷⁰ Ms. Scharf and other teachers
2 recently sought the District’s approval to assign it in 12th grade Expository Reading and Writing,
3 which would require the District to obtain additional copies. Although the teachers complied with
4 Board and District requirements, the District has yet to act on their request. On information and
5 belief, the District’s failure to act is a result of the Board’s passage and implementation of the
6 Resolution.

7 44. The Resolution has also limited Ms. Scharf’s ability to teach books that are already
8 part of her curriculum, including *Just Mercy*, by the lawyer Bryan Stevenson. *Just Mercy* recounts
9 Stevenson’s representation of low-income clients and clients of color, addressing the impacts of
10 poverty and discrimination on the basis of race, sex, and disability. Whereas Ms. Scharf typically
11 contextualizes the book by discussing the origins of inequities in the U.S. criminal justice system, she
12 circumscribed those lessons this year. Doing so “felt awful because I’m introducing my students to
13 these important and serious topics, but without the support and guidance I normally provide.”

14 45. **Plaintiff Dawn Sibby** has lived in Temecula for over 30 years and has taught in
15 TVUSD for 28 years. She currently teaches 10th grade World History and 12th grade U.S.
16 Government at Temecula Valley High School.

17 46. The Resolution has forced Ms. Sibby to alter her teaching approach and lesson plans
18 and restricted her ability to teach State-mandated content. For example, California expects 10th
19 graders to learn how European powers “justified their conquests by asserting arguments of racial
20 hierarchy and cultural supremacy, offering a vision of civilization in contrast to what they argued
21 were ‘backward’ societies.”⁷¹ Knowing this may cause some students to feel discomfort, Ms. Sibby
22 has tried to avoid using the term “white” when discussing European imperialism. But she has no idea
23 how to meet the State’s requirements without acknowledging that groups of people have been
24

25 ⁷⁰ The widely-acclaimed book recounts the story of Henrietta Lacks, a Black woman whose cells
26 were taken without her informed consent and then used to make medical advances that generated
27 significant wealth, none of which redounded to her family. It prompts students to engage with
28 questions about ethics, scientific inquiry, human dignity, racial inequality, and healthcare disparities.

⁷¹ HSS Framework at 334.

1 oppressed on the basis of race. Ms. Sibby worries that if she uses the “wrong” language or if a student
2 misinterprets her words, she may be reported to school officials and subject to discipline.

3 47. Indeed, many of the topics Ms. Sibby is responsible for teaching in World History
4 require her to discuss concepts that may run afoul of the Resolution. For example, Ms. Sibby must
5 teach about the Armenian Genocide,⁷² which opens her up to accusations of teaching that an
6 individual may belong to a racial group that either inflicts or suffers harm.

7 48. Similar challenges arise in 12th grade Government. California expects 12th graders to
8 be able to “[e]xplain the controversies that have resulted over changing interpretations of civil rights,
9 including those in *Plessy v. Ferguson* . . . and *United States v. Virginia*.”⁷³ Ms. Sibby does not know
10 how to meet this requirement without teaching that individuals have experienced discrimination on
11 the basis of race and sex. Additionally, and consistent with State standards,⁷⁴ Ms. Sibby structures
12 many of her classroom conversations around current events. Topics include “immigration and refugee
13 policies,” “racism and sexism,” and “discrimination against members of the LGBT community.”⁷⁵
14 Ms. Sibby has no way to determine what she can or cannot say in these discussions.

15 49. Many of Ms. Sibby’s Government students have asked her about the Resolution.
16 Although these are precisely the type of questions Ms. Sibby would typically encourage—and mirror
17 those posed in the HSS curriculum⁷⁶—she is concerned that responding honestly and accurately will
18 subject her to reprisal. Ms. Sibby thus seeks to deflect such inquiries, even though she knows that her
19 reticence discourages further engagement from her students.

20 50. Ms. Sibby is dismayed that the Board rushed to enact the Resolution without the input
21

22 ⁷² *Id.* at 343–44.

23 ⁷³ HSS Standards at 56.

24 ⁷⁴ *See* HSS Framework at 454 (“Structured classroom discussions . . . challenge students to discuss
25 current events and issues of their choosing by analyzing various perspectives, researching causes and
26 effects, evaluating policy options, and stating and supporting reasoned and evidence-based
27 opinions.”).

26 ⁷⁵ *Id.* at 454–55.

27 ⁷⁶ *Id.* at 437 (instructing 12th grade Government teachers to “prompt their students to consider how
28 certain liberties, such as the freedom of speech, religion, or privacy, have been and may be restricted
in a democratic system”).

1 of teachers, administrators, students, and staff. She is experiencing significant anxiety not only for
2 herself, but also for the young teachers she mentors, including a first-year teacher whose school
3 administration forced her to remove a poster of Harvey Milk from her classroom. Although her
4 mentees have contacted her for advice, Ms. Sibby does not know how to guide them.

5 **STUDENT AND PARENT PLAINTIFFS**

6 51. **Plaintiff Mae M.** is a 16-year-old Black student and rising senior at a TVUSD high
7 school. She has attended TVUSD schools since second grade, when her family moved to Temecula
8 for its excellent school system. Mae M. aspires to attend Howard University and study business.

9 52. Mae M. will be taking U.S. Government next year. California expects her to study the
10 difference between authoritarian and democratic governments to understand the importance of “open
11 educational institutions” and “free speech” in the United States.⁷⁷ Government students also examine
12 why authoritarian leaders “harass critics of their government” and otherwise suppress dissent.⁷⁸ Mae
13 M. knows that her ability to learn about these topics will be compromised by the Board’s silencing of
14 opposing viewpoints. She has already seen her A.P. U.S. History teacher instruct the class to read on
15 their own when topics like racial discrimination arose.

16 53. Mae M. is a leader in her school’s Black Student Union (“BSU”), which she joined
17 following a racist incident at her school. The BSU provides Black students a space to develop
18 friendships and learn, not just with each other but with students from all backgrounds with an interest
19 in Black history and culture. When students experience racist harassment, like being called the n-
20 word or other slurs, the BSU offers a community of supportive peers.

21 54. Since the Resolution’s enactment, the BSU has had to dedicate nearly all of its
22 meetings to dealing with the impacts of the Board’s censorship. Mae M. has found herself serving as
23 a spokesperson not only for Black students, but also for other students of color and LGBTQ students
24 who are harmed by the Board’s actions. From speaking at Board meetings to organizing
25 demonstrations, Mae M.’s leadership in Temecula’s student movement has required enormous

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⁷⁷ *Id.* at 452.

28 ⁷⁸ *Id.*

1 amounts of time, energy, and attention.

2 55. Because of these efforts, Mae M. and her parents have become the targets of
3 significant harassment and retaliation by the Board’s supporters. After the December 13 Board
4 meeting, a Facebook group publicized the identities of Mae M. and other students who spoke against
5 the Resolution. Anonymous adults also created a website and Instagram account, “We the Parents of
6 Temecula,” where they have posted pictures of and vilified Mae M. and her family. Board supporters
7 have yelled at and threatened Mae M.’s parents at meetings.

8 56. Mae M. has also faced harassment from other students. On January 11, as Mae M. was
9 posting a flyer for a demonstration, a student tore the flyer from the wall, called her a “fucking
10 retard,” and threw the flyer in the trash. The next day, Mae M. received an anonymous file transfer of
11 the flyer with “Bitchass” written across it. During the protest, students threw food—including
12 applesauce, fruit cups, sandwiches, and juice bags—at Mae M. and other protesting students.
13 Although Mae M. and her parents have reported this harassment to District officials—who have
14 repeatedly witnessed it themselves and promised to address it—no one has taken any action.
15 Recognizing the constant stress and pressure their daughter is feeling, Mae M.’s parents have sought
16 out mental healthcare for her.

17 57. Most frighteningly, supporters of the Resolution have threatened Mae M. and her
18 parents with violence, forcing them to live in a constant state of vigilance and concern for their
19 physical security.⁷⁹ At this point, Mae M.’s parents just want her to finish high school safely and
20 graduate with a public education equivalent to that of her peers across the State.

21 58. **Plaintiff Susan C.** is a 17-year old Black student and rising senior at a TVUSD high
22 school. Susan C. dreams of going to Howard University and becoming a nurse or a teacher.

23 59. Susan C., who has taken A.P. World History and A.P. U.S. History, rejects the claim
24 that the District’s history teachers are attempting to indoctrinate their students. The content Susan C.

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26 ⁷⁹ These concerns are real: between 2021 and 2022, hate crimes motivated by anti-Black animus have
27 increased by 27.1 percent, from 513 to 652. *See* Cal. Dep’t Just., *2022 Hate Crime in California* 29
28 (June 27, 2023), <https://oag.ca.gov/system/files/attachments/press-docs/Hate%20Crime%20In%20CA%202022f.pdf>.

1 has learned in her history classes has been fact-based, not opinion-driven. For example, Susan C.
2 learned about how *Plessy v. Ferguson* used the doctrine of “separate but equal” to justify racial
3 segregation.⁸⁰ As Susan C. recognizes, “That isn’t my teacher’s opinion. It is history.”

4 60. Before the Board’s actions, Susan C. had heard from teachers that her high school was
5 considering offering an A.P. African American Studies course. Susan C. was excited to study topics
6 omitted from her A.P. U.S. History course, such as the contributions of Black women like Ella Baker
7 and Fannie Lou Hamer to the struggle for equal rights. To her disappointment, Susan C. believes that
8 the current Board will not approve the course.

9 61. Outside of the classroom, Susan C. is a leader on her campus, most recently serving as
10 junior class president. Next year, Susan C. will be BSU president. Although she looks forward to
11 leading the BSU, Susan C. worries about its future. Board supporters have harassed BSU advisers at
12 multiple schools, including Susan C.’s. Susan C. has witnessed the strain this has inflicted on her
13 BSU adviser, who is one of the only Black teachers at her high school.

14 62. Susan C. values the BSU as a space to discuss Black history and achievement and
15 support peers who experience racist abuse. When Susan C. was in middle school, a student called her
16 the n-word, but administrators took no action. In high school, Susan C. has witnessed students using
17 racist and anti-LGBTQ slurs and calling people of color “dirty.” Classmates have touched her hair
18 without her permission. Previously a member of the cheer team, Susan C. left after teammates used
19 the n-word and posted racist comments on TikTok. For Susan C. and other students who have
20 undergone similar experiences, the BSU has been a place of comfort and connection.

21 63. While managing the BSU’s social media this spring, Susan C. used Instagram to
22 advocate against the Resolution. She posted information about a protest, which her principal asked
23 her to take down. Susan C. also shared publicly available information about Moms for Liberty, a
24 group that Defendant Wiersma listed among her endorsements.⁸¹ In response to this advocacy, Susan

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26 ⁸⁰ See HSS Standards at 56.

27 ⁸¹ Odette Yousef, *Moms for Liberty among conservative groups named ‘extremist’ by civil rights*
28 *watchdog*, NPR (June 7, 2023), <https://www.npr.org/2023/06/07/1180486760/splc-moms-for-liberty-extremist-group>; Jen Wiersma (@jen4tvusd), Instagram (Nov. 7, 2022), <https://www.instagram.com/p/CkqeIi8JNBi/>.

1 C.'s school administrators threatened her with discipline.

2 64. Adults have targeted Susan C. directly for speaking out against the Resolution. They
3 have taken and posted pictures of her, along with derogatory captions, on Instagram and on an
4 anonymous website. One adult confronted Susan C. during a Board meeting and tried to take the
5 conversation outside. As she prepares for senior year, Susan C. worries for her safety amidst the
6 turmoil and tension all around her.

7 65. **Plaintiff Gwen S.** is a 16-year-old Vietnamese-American student and rising junior at a
8 TVUSD high school. After eighth grade, Gwen S.'s family moved to Temecula so that Gwen S.
9 could attend one of the District's excellent high schools. Gwen S. hopes to attend college at a U.C.
10 campus and pursue a career in STEM.

11 66. Gwen S. identifies as a non-binary and queer person. During their first year of high
12 school, Gwen S. joined the Gender and Sexuality Alliance ("GSA") to build community with other
13 students, learn about LGBTQ history, and advocate for a safe and inclusive school environment. In
14 the GSA, Gwen S. found a place to make friends and feel more at home in their new city. Gwen S.
15 now serves as one of the GSA's co-leaders.

16 67. LGBTQ students at Gwen S.'s high school are frequently the targets of anti-LGBTQ
17 slurs.⁸² Last year, members of the football team taunted a queer member of the choir, shouting slurs
18 about the person's sexual orientation during a performance at a school rally. In addition, Gwen S. has
19 seen teachers refusing to use people's identified pronouns and mocking non-binary and trans
20 identities. Although Gwen S. is aware of many instances of bias-based bullying, they have never seen
21 school officials respond to it. The Board's decision to excise queer leaders from history materials
22 exacerbates the District's anti-LGBTQ climate.

23 68. Prior to the Resolution, Gwen S. and other GSA members planned to collect
24

25 ⁸² Across California, anti-LGBTQ violence rose by 28.4 percent between 2021 and 2022. Cal. Dep't
26 Just., *supra* note 81. And Resolution 21 is part of an unprecedented wave of anti-LGBTQ legislation
27 being introduced and enacted across the country. See Alexandra E. Petri, *Anti-LGBTQ+ laws put U.S.*
28 *in a state of emergency, Human Rights Campaign says*, L.A. Times (June 6, 2023),
[https://www.latimes.com/world-nation/story/2023-06-06/anti-lgbtq-laws-us-state-of-emergency-
human-rights-campaign](https://www.latimes.com/world-nation/story/2023-06-06/anti-lgbtq-laws-us-state-of-emergency-human-rights-campaign).

1 testimonies about students’ experiences to advocate for school-wide responses to bias-based bullying.
2 They also planned to invite a representative from the Human Rights Campaign, an organization that
3 works to end anti-LGBTQ discrimination, to discuss potential actions the GSA could take to support
4 LGBTQ students in school. The passage of the Resolution, however, forced Gwen S. and the GSA to
5 focus their efforts on opposing its restrictions. The Board’s actions have also caused the GSA to lose
6 its teacher adviser, who recently stepped down after 10 years of supporting the organization. As a gay
7 woman, the adviser worried that if she remained in her role, she would be labeled a “groomer” and
8 her students would be targeted by the Board’s supporters. As Gwen S. explained: “People would say
9 she is indoctrinating us.” Gwen S. and the other GSA leaders were forced to find a new adviser,
10 which was challenging because even teachers who support their efforts do not want to be harassed.
11 The GSA’s new adviser does not identify as LGBTQ, and Gwen S. and their peers feel the absence of
12 a trusted teacher who was part of their community.

13 69. The Board’s supporters have even accused Gwen S. of being a “groomer.” When
14 Gwen S. shares GSA meeting topics with their school community on Instagram, the Resolution’s
15 supporters “repost our announcements and say we are grooming by talking about gender.”

16 70. The Board’s actions have negatively impacted Gwen S.’s classroom experiences.
17 Gwen S.’s ethnic background includes countries in Asia that were colonized by western powers.
18 Beyond “this country conquered that country,” Gwen S. knows that students should be asking about
19 why colonization happened, how colonizers attempted to justify it, and what impacts it had on people
20 subject to colonial rule.⁸³ But the Resolution stymies these questions. Also, whereas students
21 previously had the opportunity to discuss racial and gender justice issues while reading books like *To*
22 *Kill A Mockingbird*, such dialogue has dwindled, and teachers have cut off discussion altogether
23 when students have asked about the Resolution. The Resolution has even caused Gwen S. to self-
24 censor. Assigned to present on a playwright of their choosing, Gwen S. selected Howard Zinn.

26 _____
27 ⁸³ HSS Standards at 43–44 (asking students to “[e]xplain imperialism from the perspective of the
28 colonizers and the colonized and the varied immediate and long-term responses by the people under
colonial rule”).

1 Because they could not discuss racial oppression, Gwen S. omitted from their presentation the racial
2 justice issues that inspired Zinn’s writings, which themselves have been the target of book banning
3 efforts.⁸⁴

4 71. Next year, Gwen S. will study U.S. History. California expects 11th graders to
5 “examine the emergence of a movement for LGBT rights,” including the role of California-based
6 groups and leaders.⁸⁵ Students are to learn about how LGBTQ mobilization led to gains like the
7 extension of the right to marry to same-sex couples.⁸⁶ Gwen S. is concerned that their teacher will be
8 discouraged from discussing this history for fear of being punished or labelled a “groomer.”

9 72. Since last December, Gwen S. has spent significant time and effort opposing the
10 Resolution. At the December 13 Board meeting, Gwen S. arrived right after school—around 4 p.m.—
11 and signed up to comment on the Resolution, which was the last agenda item. Along with other
12 students, Gwen S. was shunted aside by the Resolution’s supporters, who spoke during the general
13 comment period at the meeting’s outset. Many students had to leave the meeting at 10 p.m. and were
14 denied the ability to comment. Although it was a school night before final exams, Gwen S. stayed to
15 oppose the Resolution, which would block movement toward the more inclusive curriculum for
16 which the GSA advocates. Gwen S. was finally allowed to speak at around 11 p.m.

17 73. The December 13 Board meeting was the first Gwen S. had ever attended. Gwen S.
18 was taken aback by the adults shouting at parents and teachers and belittling LGBTQ students. One
19 adult said that if students could identify however they wanted, he would identify as “a Black lesbian
20 woman.” Gwen S. noticed that when people spoke against the Resolution, Board members let
21 attendees shout at them. But when people spoke in favor of the Resolution, Board members
22 threatened to remove those who expressed their disagreement. Gwen S. is disheartened that the Board
23 passed the Resolution without seeking students’ thoughts on the curriculum or asking about
24 discrimination or bullying at their schools. No one was even consulted. Instead, whenever Gwen S.

26 ⁸⁴ Elizabeth A. Harris & Alexandra Alter, *Book Ban Efforts Spread Across the U.S.*, N.Y. Times (Jan.
27 30, 2022), <https://www.nytimes.com/2022/01/30/books/book-ban-us-schools.html>.

28 ⁸⁵ HSS Framework at 421.

⁸⁶ *Id.* at 421–22.

1 and other students have tried to exercise their freedom of speech, they have been heckled and met
2 with hate and animosity. In Gwen S.’s words: “It has made me afraid of my community, in a way.”

3 74. Last year, the City Council invited GSAs from across the District to City Hall for a
4 proclamation honoring Pride Month. This was meaningful to Gwen S. because it felt like the City and
5 community “wanted to listen to us and at least respect us.” But even this ended in January, when the
6 Council voted to stop issuing such proclamations.⁸⁷

7 75. **Plaintiff Carson L.** is an Asian-American rising senior at a TVUSD high school. His
8 goal is to become a civil rights lawyer. Carson L. loves studying English, and he is an active member
9 of his school’s mock trial and speech and debate teams. He enjoys the humanities and social sciences
10 because unlike in science and math, where you have to do things in a specific way to find one right
11 answer, these classes allow students to assess different viewpoints and develop their own opinions.
12 And they feel very relevant, often addressing current events.

13 76. Carson L. has heard teachers at his school talk about how scared they are of the Board
14 retaliating against or firing them for teaching materials that touch on racial or gender injustice. This
15 year, for example, his I.B. English class read *Beloved*, which is impossible to teach without talking
16 about the history and impacts of racial oppression in the United States. Carson L. has noticed that
17 many teachers have been more cautious and less willing to ask students to weigh the merits of
18 competing ideas. He worries that the Resolution will prevent teachers from fully explaining issues
19 and answering questions out of fear of being reported by ideologically motivated students.

20 77. Carson L. plans to take A.P. U.S. Government and A.P. U.S. History next year. He
21 knows that people have different perspectives on the significance of historical moments, like the
22 framing of the U.S. Constitution. Carson L. is troubled by the Resolution’s requirement that teachers
23 present only one side of historical events, and by the fact that Board members have acted to erase
24 parts of history that they don’t like. Carson L. fears that the Board’s actions will deny him the
25 opportunity to develop disciplinary skills, such as connecting past events to current issues, and
26

27 ⁸⁷ Allyson Vergara, *Temecula council won’t declare Black, Hispanic, Asian heritage months or Pride*
28 *Month*, Press-Enterprise (Jan. 11, 2023), <https://www.pressenterprise.com/2023/01/11/temecula-council-wont-declare-black-hispanic-asian-heritage-months-or-pride-month/>.

1 content knowledge that will be foundational to his future work in the social sciences.

2 78. As a student taking multiple advanced classes, Carson L. worries that the Resolution’s
3 ban on required topics could cause these classes to lose their certifications, as the College Board has
4 warned.⁸⁸ But his primary concern is readiness for life after high school. In his own words: “You
5 can’t prepare for something if you can’t learn about it in school. It affects everyone’s preparation for
6 college and overall level of knowledge.” Carson L. is struck by how many adults in his community
7 believe that systemic racism no longer exists. He sees systemic racism—such as the repeated
8 incidents of police brutality against Black people—as an obvious feature of life in the United States.

9 79. Carson L. was an organizer of the student walkouts, and he prepared a public
10 comment that he was not allowed to deliver at either the December 13 or January 18 Board meetings.
11 After one meeting, he and other students called on Board members to create an advisory panel to give
12 students a voice in decisions impacting their education. Despite the students’ continued advocacy, the
13 Board has taken no responsive action. Finally, Carson L. and his peers formed a civic engagement
14 group to share ideas suppressed by the Board. Because few teachers have been willing to talk with
15 students about the Board’s actions, the group allows students to engage in independent study and
16 conversation on topics the Board has censored.

17 80. **Plaintiff David P.** is an eight-year-old rising third grader at a TVUSD elementary
18 school. His favorite subjects are history and math. David P. loves planes and flying and hopes to one
19 day become a pilot or aviation engineer. David P.’s mother, **Plaintiff Rachel P.**, moved with him to
20 Temecula for its diverse community and excellent schools. She chose to live in an area that would
21 allow David P. to attend one of the District’s most diverse schools. Rachel P. is concerned about the
22 Resolution’s harmful impact on David P.’s current and future experiences in TVUSD.

23 81. California expects third graders to learn about the foundational principles of American
24

25 ⁸⁸ College Board, *What AP Stands For*, AP Central (2023), [https://apcentral.collegeboard.org/about-](https://apcentral.collegeboard.org/about-ap/what-ap-stands-for/)
26 [ap/what-ap-stands-for/](https://perma.cc/L64U-ENYJ), archived at <https://perma.cc/L64U-ENYJ> (“**AP opposes censorship**. AP is
27 animated by a deep respect for the intellectual freedom of teachers and students alike. If a school
28 bans required topics from their AP courses, the AP Program removes the AP designation from that
course and its inclusion in the AP Course Ledger provided to colleges and universities.” (emphasis in
original)).

1 democracy and the importance of informed civic engagement.⁸⁹ Rachel P. is concerned that David
2 P.’s teacher will be chilled from introducing concepts such as the freedom to express one’s own
3 opinions, the freedom to learn about different viewpoints, and the need to separate church and state.
4 She is therefore considering moving out of the District so that David P. will be able to receive an
5 elementary school education equivalent to that of his peers elsewhere in the State.

6 82. Rachel P. is an active member of David P.’s school community and regularly attends
7 Board meetings. She has heard teachers express the anxiety and uncertainty they are suffering as a
8 result of the Board’s actions. Many are worried about being labeled “activist teachers” and denied
9 due process. Rachel P. believes that the Resolution and the message it sends will discourage qualified
10 teachers from applying to or remaining in positions in the District.

11 83. David P. has Sephardic Jewish roots, and Rachel P. is concerned that the Resolution
12 will result in unrealistic depictions of important events in David P.’s history, like the Holocaust. She
13 is troubled that David P.—who will be attending Temecula schools for the next decade—is being,
14 and will continue to be, deprived of a full and accurate educational foundation in history, the social
15 sciences, and English/Language Arts, among other subjects.

16 84. **Plaintiff Violet B.** is an eight-year-old Hispanic student at a TVUSD elementary
17 school. Her favorite subjects are reading and science, and she loves to sing in her school’s chorus and
18 act in Drama class. Violet B.’s mother, **Plaintiff Inez B.**, and father moved to Temecula for the
19 educational opportunities in its schools. Violet B.’s parents value the diversity of her elementary
20 school, which has enabled Violet B. to learn about multiple points of view, develop empathy, and
21 prepare for life in today’s multicultural society.

22 85. California expects third graders to learn about the history and contributions of local
23 Native American groups as well as later arrivals to the region. Violet B. is of Mexican descent, and it
24 is important to her parents that she learn about her family’s culture and how it enriches Temecula’s
25 community. Violet B.’s parents worry that her teacher will be prevented from discussing students’
26 cultural heritage by the Resolution’s ban on teaching that “[a]n individual is . . . superior to another

27 _____
28 ⁸⁹ HSS Framework at 60–63.

1 individual because of race.”⁹⁰ Violet B.’s parents also fear that she will not learn about how historical
2 figures such as Frederick Douglass and Harriet Tubman fought for a more racially just society,⁹¹
3 because such topics may make white students uncomfortable.

4 86. Beyond the classroom, the Board has created a climate of hostility that has diminished
5 Violet B.’s sense of security in her school and community. Violet B.’s parents worry about the lasting
6 harms the Resolution will have on her learning and wellbeing.

7 87. Inez B. is active in Violet B.’s school community. She knows teachers who are leaving
8 the District or retiring early due to the Board’s actions. One teacher explained to Inez B. that she has
9 been pausing before answering student questions that touch on race or the present impact of historical
10 events. Although this teacher believes that systemic racism exists, she will not mention it for fear of
11 being misquoted.

12 88. Inez B. has dedicated six years to the TVUSD community, serving on committees,
13 taking on leadership roles at the school and District levels, and working to ensure that the District
14 provides high-quality and equitable education to its students. She is saddened and angered by the
15 Board’s undoing of that work, particularly without engaging with her and other parents who have
16 devoted their time, energy, and talents to serving the District.

17 89. **Plaintiff Stella B.**, the older sister of Plaintiff Violet B., is an 11-year-old Hispanic
18 student and rising seventh grader at a TVUSD middle school. Stella B. aspires to attend the
19 University of Southern California and become a lawyer or teacher.

20 90. Stella B.’s class recently read *Roll of Thunder, Hear My Cry*. For Stella B., the book
21 provided a window into Black experiences and helped her understand how the legacies of slavery and
22 Jim Crow continue to affect Black communities. Stella B. knows that other sixth graders in TVUSD
23 did not read *Roll of Thunder, Hear My Cry* this year because their instructors were afraid of being
24 punished for teaching it. She worries that her sister and other younger students in TVUSD will not
25 have the opportunity to learn from the book if even more teachers stop assigning it.

26
27 ⁹⁰ Resol. 21, *supra* note 1.

28 ⁹¹ HSS Framework at 64.

1 91. In seventh grade, California students begin studying world history. The State’s
2 history-social science framework contrasts its current global emphasis with approaches “that put
3 Western Europe at the center of world events.”⁹² Students learn to examine the causes and effects of
4 cross-cultural interactions, including the racialized justifications for the Atlantic slave trade, the
5 decimation of Native American populations by newly introduced diseases, and the “unequal and
6 exploitative” nature of colonialism.⁹³ Stella B.’s parents are concerned that her teachers will avoid
7 fully engaging with these subjects given the Resolution’s ban on teaching that “[i]ndividuals are
8 either a member of the oppressor class or the oppressed class because of race or sex.”⁹⁴

9 92. Even with two young children, Inez B. and her husband have taken the time to
10 regularly attend Board meetings since 2018. They were among the parents who opposed the
11 Resolution at the December 13 meeting. Inez B. worries that the Board’s actions are depriving
12 Stella B. of a culturally responsive education, which she knows is essential to providing students of
13 color like her daughters with opportunities to learn that are equal to those of their white peers.

14 **DEFENDANTS**

15 93. **Defendants Joseph Komrosky, Jennifer Wiersma, Danny Gonzalez, Allison**
16 **Barclay, and Steven Schwartz** (“Defendant Trustees”), sued in their official capacities, are the five
17 members of **Defendant TVUSD Board of Trustees**. Defendant Board is the governing body of
18 TVUSD.⁹⁵ Defendant Trustees and Defendant Board are responsible for setting rules governing
19 TVUSD public schools that are “not inconsistent with law or with the rules prescribed by the State
20 Board of Education.”⁹⁶

21 94. **Defendant TVUSD** is the local education agency governed by Defendant Board.⁹⁷ It
22 is responsible for implementing educational programs and activities at the public schools within its
23

24 ⁹² *Id.* at 181.

25 ⁹³ *Id.* at 225–26, 229.

26 ⁹⁴ Resol. 21, *supra* note 1.

27 ⁹⁵ *See* Cal. Educ. Code § 35010(a).

28 ⁹⁶ *Id.* § 35291.

⁹⁷ *Supra* note 97.

1 boundaries. Defendant TVUSD presently operates 32 schools, including 17 elementary schools, six
2 middle schools, and three comprehensive high schools. It is headquartered at 31350 Rancho Vista
3 Road, Temecula, California, 92592.

4 95. **Defendants Does 1 through 20 inclusive** are defendants sued under fictitious names
5 pursuant to California Code of Civil Procedure section 474, who are responsible for the violations
6 described in this Complaint, but whose identities Plaintiffs presently do not know. Upon information
7 and belief, Plaintiffs allege that each of the fictitiously named Defendants was in some manner
8 responsible for, participated in, or contributed to the matters and things of which Plaintiffs complain
9 herein, and in some fashion, has legal responsibility therefor. When the exact nature and identity of
10 the fictitious Defendants who are responsible for participating and contributing to the matters and
11 things herein alleged are ascertained by Plaintiffs, Plaintiffs will amend this pleading to set forth the
12 same.

13 **HOW RESOLUTION 21 VIOLATES CALIFORNIA’S CONSTITUTION**
14 **AND STATUTES**

15 **I. The Resolution Impedes the Free Exchange of Ideas in Public School Classrooms.**

16 96. In *Brown v. Board of Education*, the United States Supreme Court emphasized that the
17 provision of public “education is perhaps the most important function of state and local
18 governments.”⁹⁸ California’s high court has described education as “the lifeline of both the individual
19 and society” because of “its essential role in opening up to the individual the central experiences of
20 our culture”⁹⁹—economic, social, and political.¹⁰⁰ “[A]s the problems of our diverse society become
21 increasingly complex,” “[t]he need for an educated populace” capable of sifting through
22 misinformation and drawing reasoned conclusions rises proportionately.¹⁰¹ In light of the pivotal
23 function of education in maintaining a healthy democracy, the California Supreme Court has
24

25 ⁹⁸ *Brown v. Bd. of Educ.*, 347 U.S. 483, 493 (1954); *accord Serrano*, 5 Cal. 3d at 606.

26 ⁹⁹ *Serrano*, 5 Cal. 3d at 605.

27 ¹⁰⁰ *Hartzell*, 35 Cal. 3d at 907.

28 ¹⁰¹ *Serrano*, 5 Cal. 3d at 608.

1 repeatedly held it to be a fundamental right, the infringement of which is subject to strict scrutiny.¹⁰²

2 97. Classrooms that foster the robust exchange of ideas encourage students to consider
3 and engage with viewpoints different from their own. Students prepare for a lifetime of democratic
4 participation by learning to assess competing arguments, critically evaluate sources of information,
5 and reason analytically. As the California Supreme Court has explained, education not only
6 “stimulates an interest in the political process,” but also “provides the intellectual and practical tools
7 necessary for political action.”¹⁰³ The fundamental right to education thus requires both exposure to a
8 broad range of ideas *and* a classroom environment that fires student curiosity and promotes vigorous
9 discussion. In addition to teaching “intellectual skills,” educators need the freedom to provide
10 students with “the practical training and experience—from communicative skills to experience in
11 group activities—necessary for full participation in the ‘uninhibited, robust, and wide-open’ debate
12 that is central to our democracy.”¹⁰⁴

13 98. These principles inform the California History-Social Science Framework (“HSS
14 Framework”) and the California History-Social Science Content Standards (“HSS Standards”),¹⁰⁵
15 which reflect the overwhelming consensus of State educators and the public around the academic
16 foundation necessary for meaningful civic participation.¹⁰⁶ Recognizing the vital importance of a
17 “knowledgeable and engaged citizenry” to the health of our system of government, the HSS
18 curriculum sets out the content and skills that are essential to preparing California students “for
19 college, careers, and civic life.”¹⁰⁷ Central to this preparation is collaborative inquiry, through which
20

21 ¹⁰² *E.g., Butt*, 4 Cal. 4th at 683 (“[E]ducation is a fundamental interest under the California equal
22 protection guaranties and . . . the unique importance of public education in California’s constitutional
23 scheme requires careful scrutiny of state interference with basic educational rights.”); *Serrano*, 5 Cal.
24 3d at 597, 608–09 (Education’s “distinctive and priceless function . . . in our society warrants, indeed
compels,” its treatment as a “fundamental interest” and the application of strict scrutiny.)

25 ¹⁰³ *Hartzell*, 35 Cal. 3d at 907–08.

26 ¹⁰⁴ *Id.* at 908 (quoting *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964)).

27 ¹⁰⁵ HSS Framework, *supra* note 24; HSS Standards, *supra* note 25.

28 ¹⁰⁶ HSS Framework at 15–16.

¹⁰⁷ *Id.* at 16, 482.

1 students learn to frame “questions of significance,” analyze “relevant evidence” gathered from “a
2 wide variety of perspectives,” and draw their own conclusions.¹⁰⁸ Educators foster these skills
3 through civic learning activities such as “debate, structured discussion, and deliberation concerning
4 public issues.”¹⁰⁹ Teachers lead conversations marked by “rigor,” “risk,” and the “open-minded
5 consideration of all viewpoints,” creating learning environments in which students can “ask important
6 questions that do not have obvious or easy answers.”¹¹⁰ Students have the freedom to “alter [their]
7 initial ideas” as they weigh competing perspectives and synthesize new information.¹¹¹

8 99. As described *supra* para. 11 and *infra* paras. 100–101, the Resolution impedes this
9 inquiry by suppressing ideas with which certain Board members disagree. It prescribes the one-sided
10 treatment of issues, such as structural inequality, that are among the most consequential in our
11 national dialogue. And it denies Temecula’s students the foundational skills and knowledge necessary
12 for “active and effective participation in the pluralistic, often contentious society in which they will
13 soon be adult members.”¹¹²

14 **II. The Resolution Discriminates on the Basis of Viewpoint.**

15 100. The Resolution unlawfully restricts instruction on viewpoints disfavored by the
16 Board’s new members, including the existence of racism and sex discrimination in the United States.
17 As explained *supra*, notwithstanding its framing of the Resolution as a ban on “Critical Race
18 Theory,” the Board has used the term to censor concepts as varied as race and systemic racism; sex
19 and sex discrimination; gender identity; sexual orientation; diversity, equity, and inclusion; implicit
20 bias; culturally responsive education; and social emotional learning. To the extent these topics can
21 even be discussed, the Resolution requires teachers to “focus[] on [their] flaws,” facially
22 discriminating on the basis of viewpoint.

23 101. The Resolution’s viewpoint discrimination is also readily apparent in comparing its
24

25 ¹⁰⁸ *Id.* at 15–16.

26 ¹⁰⁹ *Id.* at 778.

27 ¹¹⁰ *Id.* at 590.

28 ¹¹¹ *Id.*

¹¹² *Hartzell*, 35 Cal. 3d at 907 n.9 (quoting *Pico*, 457 U.S. at 868).

1 text to that of a resolution from Placentia-Yorba Linda on which it was partially modeled:

2 **Figure 2: Excerpts from redline comparison of**
3 **Placentia-Yorba Linda Resolution and Resolution 21**

4 WHEREAS, All ~~S~~students deserve a high-quality education and experiences in the ~~Placentia-Yorba~~
5 ~~Linda-Temecula Valley Unified School District (“TVUSD” or the “District”); and~~

6 ~~WHEREAS, Nothing in this resolution shall be construed to restrict academic freedom or student~~
7 ~~speech; and~~

8 WHEREAS, Nothing in this resolution shall require any staff member to violate local, state, or
9 federal law ~~as well as California Education Code; and~~

10 ~~WHEREAS, This resolution has to do with how topics of race will be taught in this district, not~~
11 ~~what topics will be taught; and~~

12 ~~WHEREAS, This resolution will not alter the existing content currently taught in all certified AP~~
13 ~~and IB courses so as not to jeopardize the integrity of the coursework and risk losing certification;~~
14 ~~and~~

15 WHEREAS, The ~~Placentia-Yorba Linda Unified School District~~TVUSD Board of Education
16 affirms its ~~commitment and expectation~~requirement that teachers will rely on the Board of
17 Education adopted curriculum as the authoritative source for the conte~~xt~~ of instruction ~~to provide~~
18 ~~a comprehensive education; and~~

19 WHEREAS, The ~~Placentia-Yorba Linda Unified School District~~TVUSD values all students ~~and~~
20 ~~promotes equity and equality~~, respects diversity, celebrates the contributions of all, and encourages
21 culturally relevant and inclusive teaching practices. The ~~Placentia-Yorba Linda Unified School~~
22 ~~District~~TVUSD further believes that the diversity that exists among the District’s community of
23 students, staff, parents, guardians, and community members is an asset to be honored and valued;
24 and

25 As shown above, the Board struck the Placentia-Yorba Linda Resolution’s affirmation that nothing
26 therein “shall be construed to restrict academic or free speech.”¹¹³ It removed assurances that the
27 Resolution would not impact course content, including “what topics will be taught” or “the existing
28 content currently taught in all certified AP and IB courses”—language intended to protect “the
integrity of,” and thus the college credits secured by, such coursework.¹¹⁴ Strikingly—and contrary to

27 ¹¹³ *Id.*

28 ¹¹⁴ *Id.*

1 its own policy underscoring “that educational excellence requires a commitment to equity”¹¹⁵—the
2 Board also chose to delete the statement that the District “promotes equity and equality.”

3 **III. The Resolution is Unconstitutionally Vague.**

4 102. There are two independent grounds for finding a law to be impermissibly vague. The
5 first is where the law fails to give a “person of ordinary intelligence . . . a reasonable opportunity to
6 know what is prohibited.”¹¹⁶ The second is where it “creat[es] a danger of arbitrary and
7 discriminatory” enforcement.¹¹⁷ The Resolution does both.

8 103. First, the Resolution nowhere defines or provides examples of the “other similar
9 frameworks” it prohibits, leaving Temecula’s teachers to guess at what State- and District-mandated
10 methods of inquiry may be prohibited. Culturally responsive instruction, for example, is widely
11 accepted among educational researchers as a prerequisite to ensuring that students from all
12 backgrounds have the opportunity to learn.¹¹⁸ It is uniformly required under California’s subject
13 matter and teacher performance standards.¹¹⁹ In Temecula, the Board is required to promote “equity

14
15 ¹¹⁵ TVUSD, *Policy 0415: Equity*, <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=51nz4WcLPVhwfcuKtdhIZw==&ptid=amIgTZiB9plushNjl6WXhfiOQ==&secid=&PG=6&IRP=0&isPndg=false>.

17 ¹¹⁶ *Snatchko v. Westfield LLC*, 187 Cal. App. 4th 469, 495 (2010).

18 ¹¹⁷ *Id.*; *Kolender v. Lawson*, 461 U.S. 352, 358 (1983) (highlighting “concern . . . based upon the
19 ‘potential for arbitrarily suppressing First Amendment liberties’” (quoting *Shuttlesworth v. City of Birmingham*, 382 U.S. 87, 91 (1965))).

20 ¹¹⁸ *Infra* paras. 115–117.

21 ¹¹⁹ *E.g.*, HSS Framework at 510–11 (“To ensure that all students thrive in history–social science
22 classrooms, teachers should . . . learn about their students’ lives and make connections between
23 students’ experiences, backgrounds, and interests and the content learning in school.”); Cal. Dep’t
24 Educ., *English Language Arts/English Language Development Framework* 918 (2014), <https://www.cde.ca.gov/ci/rl/cf/documents/elaelfwchapter9.pdf> (same); Cal. Dep’t Educ., *California Arts Education Framework* 94 (2020), <https://www.cde.ca.gov/ci/cr/cf/documents/caartsedfw.pdf> (“The development of knowledge and skills in the arts must be connected with students’ cultural identities.”); Cal. Dep’t Educ., *Mathematics Framework* 673 (2013), <https://www.cde.ca.gov/ci/ma/cf/documents/mathfwuniversalaccess.pdf> (educators are to provide “culturally and linguistically relevant instruction); Cal. Dep’t Educ., *Health Education Framework* 565 (2019), <https://www.cde.ca.gov/ci/he/cf/documents/healthedframework2019.pdf> (educators are to “deliberately include culturally relevant topics and texts”); Cal. Dep’t Educ., *2016 Science Framework* 1404 (2016), <https://www.cde.ca.gov/ci/sc/cf/documents/scifwchapter10.pdf> (educators are to “[r]ecognize and leverage [students’] cultural and experiential backgrounds”); Cal. Dep’t Educ., *World Language*

1 in district programs and activities, through measures such as . . . professional development on
2 culturally responsive instructional practices.”¹²⁰

3 104. Central to culturally responsive instruction is the fostering of students’ critical
4 consciousness, *i.e.*, their “ability to recognize and critique societal inequities” as they manifest in
5 real-world situations.¹²¹ California’s teaching standards mandate that educators “connect subject
6 matter to meaningful, real-life contexts” and “encourage students to ask critical questions and
7 consider diverse perspectives about subject matter.”¹²² For example, a U.S. Government teacher
8 might explore how voting restrictions impact electoral participation among communities of color, and
9 ask students to interrogate the reasons why such laws are passed.¹²³ A U.S. History teacher whose
10 students are learning about the Equal Rights Amendment might ask students to compare the societal
11 context of the 1970s with current conditions that have driven a renewed push toward ratification.¹²⁴

12 105. Culturally responsive instruction helps students to (i) recognize that power is, and has
13 historically been, unequally distributed throughout society and (ii) analyze why such imbalances
14 exist. A teacher could therefore interpret the Resolution as prohibiting culturally responsive teaching,
15 even though such instruction is expressly called for by both State and District regulations. Temecula
16 teachers understandably feel compelled to avoid such approaches lest they be deemed to violate the
17 Resolution.

18 106. Teachers attempting to square the ban with California- and District-mandated

19 _____
20 *Framework* 646 (2020), <https://www.cde.ca.gov/ci/fl/cf/documents/wlframework.pdf> (educators are
21 to “use the strategies and learning approaches of their students’ cultural traditions to scaffold and
22 facilitate learning”).

22 ¹²⁰ TVUSD, *supra* note 117.

23 ¹²¹ Cal. Dep’t of Educ., *Culturally Relevant Pedagogy* (2023), <https://www.cde.ca.gov/pd/ee/culturalrelevantpedagogy.asp>.

24 ¹²² Cal. Comm’n Teacher Credentialing, *California Standards for the Teaching Profession* 4–6
(2009), <https://www.ctc.ca.gov/docs/default-source/educator-prep/standards/cstp-2009.pdf>.

25 ¹²³ *See* HSS Framework at 275 (instructing teachers to “weave in the recurrent themes of citizenship
26 and voting by emphasizing how these rights and privileges have been contested and reshaped over
27 time”).

28 ¹²⁴ *See id.* at 421 (“Students can debate the Equal Rights Amendment and discuss why it failed to get
ratified.”).

1 curriculum standards face a similar quandary. As the California Department of Education recently
2 emphasized, State law requires local educational agencies to ensure that all students have access to
3 “materials that are aligned with [State] standards and frameworks.”¹²⁵ The Board’s own, still binding
4 policies likewise mandate—at minimum—alignment with State curriculum standards,¹²⁶ many of
5 which call for the discussion of concepts banned under the Resolution. Teachers are left to decipher
6 the boundaries (if any) between the Resolution’s sweeping and largely undefined proscriptions and
7 State and District requirements.

8 107. Among the most glaring manifestations of this fundamental incompatibility is the
9 State’s requirement that every local education agency with students in grades 9–12 “offer at least a
10 one-semester course in ethnic studies” beginning in 2025.¹²⁷ For students who start high school the
11 following fall, the course will be a prerequisite for graduation.¹²⁸ As the HSS curriculum explains,
12 “central to any ethnic studies course is the historic struggle of communities of color, taking into
13 account the intersectionality of identity (gender, class, sexuality, among others), to challenge racism,
14 discrimination, and oppression and interrogate the systems that continue to perpetuate inequality.”¹²⁹
15 Critical analysis of the use and distribution of power is also integral to the discipline, and provides
16 the impetus for student-led inquiry and civic engagement.¹³⁰ The Resolution’s ban on the teaching of
17 critical race theory and “other similar frameworks” is antithetical to these foundational principles,
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19

20 ¹²⁵ Cal. Dep’t of Educ., *Guidance on Removal of Instruction or Instructional Materials* (2023),
21 <https://www.cde.ca.gov/ci/cr/cf/removalinstruandim.asp>.

22 ¹²⁶ E.g., TVUSD, *Policy 6142.94: History-Social Science Instruction*,
23 <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=gBTRqr7v1OLFvU>
24 [npnRPLzw==&ptid=amIgtZiB9plushNjl6WXhfiOQ==&secid=ruE8yj8gaZHBkLjNHwMkZw==&PG=6&IRP=0&isPndg=false](https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=gBTRqr7v1OLFvU) (“The Board shall adopt academic standards for history-social science
24 **which meet or exceed state content standards . . .**” (emphasis added)).

25 ¹²⁷ Cal. Educ. Code § 51225.31)(G)(i).

26 ¹²⁸ *See id.*

27 ¹²⁹ HSS Framework at 311.

28 ¹³⁰ Cal. Dep’t of Educ., *Ethnic Studies Model Curriculum 9–10* (2021), <https://www.cde.ca.gov/ci/cr/cf/documents/ethnicstudiescurriculum.pdf>.

1 which California mandates in any course seeking to satisfy the ethnic studies requirement.¹³¹ A
2 teacher cannot comply with California law and the Resolution at the same time.¹³²

3 108. The same is true for core disciplinary subjects. For example, in history and the social
4 sciences:

- 5 ○ California requires eighth graders to “[e]valuate the major debates that occurred
6 during the development of the Constitution and their ultimate resolutions in such areas
7 as . . . slavery.”¹³³ Students consider compromises made during the Constitutional
8 Convention to “preserve[] the institution of slavery: namely, the three-fifths rule of
9 representation, the slave importation clause, and the fugitive-slave clause.”¹³⁴ They
10 may “wrestle with a question faced by some Founding Fathers: How could the
11 nation’s ideals of freedom, liberty, and democracy be adopted alongside slavery?”¹³⁵

12 Can a U.S. History teacher ask students to assess “the long-term costs of slavery, both
13 to people of African descent and to the nation at large”?¹³⁶ Or would that violate the
14 Resolution’s ban on teaching that individuals are members of an “oppressed class
15 because of race”?¹³⁷

- 16 ○ Can a U.S. History teacher discuss women’s historical and contemporary struggles for
17 wage equality,¹³⁸ or would this constitute teaching that individuals are members of an
18 “oppressed class because of . . . sex”?¹³⁹
- 19 ○ California expects 12th graders to be able to “[e]xplain the controversies that have
20 resulted over changing interpretations of civil rights, including those in . . . *Regents of*

21 ¹³¹ Cal. Educ. Code § 51225.3(1)(G)(iii).

22 ¹³² Unsurprisingly, therefore, the Board has failed to initiate the process to adopt an ethnic studies
23 curriculum—which, according to its own regulations, needed to begin this academic year in order to
24 offer the course by the statutory deadline. TVUSD, *Regulation 6141: Curriculum Development And*
25 *Evaluation*, [https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=](https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=uirBbJKwOTzfVKXCujIpgg==&ptid=amIgTZiB9plushNjl6WXhfiOQ==&secid=ruE8yj8gaZHBkLjNHWmKZw==&PG=6&IRP=0&isPndg=false)
26 [uirBbJKwOTzfVKXCujIpgg==&ptid=amIgTZiB9plushNjl6WXhfiOQ==&secid=ruE8yj8gaZHBkLj](https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=uirBbJKwOTzfVKXCujIpgg==&ptid=amIgTZiB9plushNjl6WXhfiOQ==&secid=ruE8yj8gaZHBkLjNHWmKZw==&PG=6&IRP=0&isPndg=false)
27 [NHWmKZw==&PG=6&IRP=0&isPndg=false](https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=uirBbJKwOTzfVKXCujIpgg==&ptid=amIgTZiB9plushNjl6WXhfiOQ==&secid=ruE8yj8gaZHBkLjNHWmKZw==&PG=6&IRP=0&isPndg=false).

28 ¹³³ HSS Standards at 34.

¹³⁴ HSS Framework at 242.

¹³⁵ *Id.* at 242–43.

¹³⁶ *Id.* at 243.

¹³⁷ Resol. 21, *supra* note 1.

¹³⁸ *E.g.*, HSS Framework at 388 (describing how “labor and social justice movements” advocated for
“wage equality” and “more social freedom for women”).

¹³⁹ Resol. 21, *supra* note 1.

1 *the University of California v. Bakke.*¹⁴⁰ Can a U.S. History or Government teacher
2 invite students to debate the outcome of *Students for Fair Admissions v. Harvard*? The
3 pros and cons of affirmative action more generally? Or would this violate the
4 Resolution’s ban on teaching that “an individual should receive favorable treatment
due to the individual’s race or sex” or that “[m]eritocracy” is racially
discriminatory?¹⁴¹

5 109. These concerns extend beyond history and the social sciences. The Resolution’s
6 prohibitions also imperil the teaching and learning of multiple State standards in English/Language
7 Arts. For example, can a high school teacher assign Martin Luther King’s *Letter from the*
8 *Birmingham Jail*,¹⁴² which includes the following passages:

9 We know through painful experience that freedom is never voluntarily given by the
10 oppressor; it must be demanded by the oppressed. [. . .]

11 I guess it is easy for those who have never felt the stinging darts of segregation to say
12 wait. But . . . when you take a cross country drive and find it necessary to sleep night
13 after night in the uncomfortable corners of your automobile because no motel will
14 accept you; when you are humiliated day in and day out by nagging signs reading
“white” men and “colored”[;] when . . . your middle name becomes “boy” (however
old you are) . . . then you will understand why we find it difficult to wait. [. . .]

15 [F]ew members of the oppressor race can understand the deep groans . . . of the
16 oppressed race, and still fewer have the vision to see that injustice must be rooted out
by strong, persistent and determined action.

17 Would asking students to analyze King’s letter violate the Resolution’s ban on teaching that
18 “[i]ndividuals are either a member of the oppressor class or the oppressed class because of race”?¹⁴³
19 That “[a]n individual, by virtue of his or her race . . . , bears responsibility for actions committed in
20 the past or present by other members of the same race”?¹⁴⁴ That “[a]n individual should feel

21 _____
22 ¹⁴⁰ HSS Standards at 56.

23 ¹⁴¹ Resol. 21, *supra* note 1.

24 ¹⁴² Martin Luther King, Jr., *Letter from the Birmingham Jail* (1963); Cal. Dep’t of Educ., *California*
25 *Common Core State Standards English Language Arts & Literacy in History/Social Studies, Science,*
26 *and Technical Subjects* [hereinafter CCSS ELA/Literacy] 54, 78 (2013), <https://www.cde.ca.gov/be/st/ss/documents/finaelaccsstandards.pdf>; *see also* HSS Standards at 54 (11th graders are required to
“[e]xamine the roles of civil rights advocates . . . , including the significance of Martin Luther King, Jr.’s ‘Letter from Birmingham Jail.’”).

27 ¹⁴³ Resol. 21, *supra* note 1.

28 ¹⁴⁴ *Id.*

1 discomfort, guilt, anguish or any other form of psychological distress on account of his or her
2 race”?¹⁴⁵

3 110. Similar challenges arise in nearly every discipline. In the arts, California expects fifth
4 graders to be able to “[i]dentify how art is used to inform or change beliefs, values, or behaviors of an
5 individual or society.”¹⁴⁶ Can a teacher ask students to consider the message of “The Problem We All
6 Live With,” a Norman Rockwell painting of Ruby Bridges, the first Black child to attend an all-white
7 elementary school in New Orleans? Or would this violate the Resolution’s ban on teaching that “[a]n
8 individual should feel discomfort, guilt, anguish or any other form of psychological distress on
9 account of his or her race”?¹⁴⁷ And in computer science, California requires students in grades 6–8 to
10 be able to “[d]iscuss issues of bias and accessibility in the design of existing technologies,” such as
11 “the impacts of facial recognition software that works better for lighter skin tones” because “it was
12 likely developed with a homogeneous testing group.”¹⁴⁸ If a teacher asked students to consider how
13 seemingly neutral design practices can reflect and result in racial inequity, would this violate the
14 Resolution’s ban on teaching that “[r]acism is ordinary, the usual way society does business”?¹⁴⁹

15 **IV. The Resolution Discriminates on the Basis of Race, Sexual Orientation, and Sex.**

16 111. The Board enacted the Resolution with the discriminatory intent to censor and chill
17 inclusive teaching methods and concepts that benefit all students, but particularly students of color
18 and LGBTQ students. The Resolution’s disparate harms, historical background, preceding events,
19 procedural and substantive irregularities, and legislative history all demonstrate the Board’s purpose
20 to discriminate against students and teachers on the basis of race and LGBTQ status.

21 112. The Board’s reliance on the Resolution to censor information about the LGBTQ rights
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23 ¹⁴⁵ *Id.*

24 ¹⁴⁶ Cal. Dep’t of Educ., *California Arts Standards* 221 (2019), [https://www.cde.ca.gov/be/st/ss/
25 documents/caartsstandards.pdf](https://www.cde.ca.gov/be/st/ss/documents/caartsstandards.pdf).

26 ¹⁴⁷ Resol. 21, *supra* note 1.

27 ¹⁴⁸ Cal. Dep’t of Educ., *California Computer Science Standards* 93 (2018), [https://www.cde.ca.gov/
28 be/st/ss/documents/csstandards.pdf](https://www.cde.ca.gov/be/st/ss/documents/csstandards.pdf).

¹⁴⁹ Resol. 21, *supra* note 1.

1 movement and activists further underscores its animus. Objecting to the appearance of Harvey Milk
2 in curricular materials, Defendant Gonzalez cited—and Komrosky emphasized—a toxic, unfounded,
3 and decades-old stereotype linking LGBTQ people to pedophilia.¹⁵⁰ Wiersma claimed, also without
4 basis, that the California statute requiring teaching about diverse groups’ societal contributions did
5 not apply to students in kindergarten through fifth grade.¹⁵¹

6 113. By restricting instruction about discrimination against women and women’s struggle
7 for equality, the Resolution has also had a disparate adverse impact on female students and teachers.

8 **A. The Resolution Causes Disparate Harm to Protected Classes.**

9 114. While culturally responsive and inclusive curriculum and teaching methods benefit all
10 students, they provide vital support to the educational experiences of students from marginalized
11 communities. By restricting such instruction, the Resolution inflicts disproportionate harm on
12 TVUSD’s students and teachers of color, female students and teachers, and LGBTQ students and
13 teachers.

14 115. Research overwhelmingly supports the academic and personal benefits to students of
15 color, female students,¹⁵² and LGBTQ students from curriculum that reflects their identities,
16 experiences, and histories. Researchers at UC Riverside, for example, found that Black high school
17 students’ college aspirations significantly increased after attending a college preparatory program that
18 taught Black history and fostered a peer environment of high expectations.¹⁵³ Similarly, a recent
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20 ¹⁵⁰ May 16 Board Meeting at 1:53:01, https://youtu.be/ABcKfZu7_pU?t=6781; Melissa Block,
21 *Accusations of “Grooming” are the Latest Political Attack—with Homophobic Origins*, Nat’l Pub.
22 Radio (May 11, 2022), [https://www.npr.org/2022/05/11/1096623939/accusations-grooming-political-](https://www.npr.org/2022/05/11/1096623939/accusations-grooming-political-attack-homophobic-origins)
23 *attack-homophobic-origins* (false “‘grooming’ smear often expands to include accusations of
24 pedophilia and sex trafficking”); Carole Jenny et al., *Are Children at Risk for Sexual Abuse by*
25 *Homosexuals?*, 94 Am. Acad. Pediatrics 41, 41 (1994) (in study of 269 children sexually abused by
26 adults, perpetrator was a gay or lesbian adult in less than one percent of cases).

25 ¹⁵¹ May 16 Board meeting at 1:49:35, https://youtu.be/ABcKfZu7_pU?t=6575.

26 ¹⁵² See, e.g., Corinne A. Moss-Racusin et al., *Boosting the Sustainable Representation of Women in*
27 *STEM with Evidence-Based Policy Initiatives*, 8 Pol’y Insights from Behav. & Brain Scis. 50, 52
(2023) (collecting studies on importance of exposure to female role models for female STEM
28 students).

28 ¹⁵³ Uma M. Jayakumar et al., *Pathways to College for Young Black Scholars: A Community Cultural*

1 study demonstrated that students taking ethnic studies courses in the San Francisco Unified School
2 District had higher attendance rates and grade point averages relative to their peers.¹⁵⁴ Research also
3 links inclusive curricula with increased standardized test scores.¹⁵⁵ Finally, inclusive curricula have
4 been shown to improve academic persistence and satisfaction among students of color.¹⁵⁶ This is
5 particularly important in Temecula, where many students experience racially disparate academic
6 outcomes.¹⁵⁷

7 116. Students without access to inclusive curricula, by contrast, are more likely to be
8 disaffected with or alienated by their studies. For example, indigenous students report feeling
9 silenced and ignored when history curricula fail to include indigenous perspectives or accurate
10 depictions of historical events involving their communities.¹⁵⁸ Temecula’s indigenous students report
11 receiving little to no formal instruction on local indigenous peoples. School clubs provide the only
12 space for District students to engage in meaningful learning about the histories and cultures of the
13 local Pechanga and Pala tribes.

14 117. With respect to school climate, research has found inclusive curricula essential to
15 combatting harassment, discrimination, and bullying on the basis of race, gender, and sexual
16 orientation. LGBTQ-inclusive curricula has been linked to greater school safety, fewer absences,

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19 *Wealth Perspective*, 83 Harv. Educ. Rev. 551, 551–79 (2013), <https://doi.org/10.17763/haer.83.4.4k1mq00162433128>.

20 ¹⁵⁴ Thomas Dee & Emily Penner, *The Causal Effects of Cultural Relevance: Evidence from an Ethnic*
21 *Studies Curriculum*, 54 Am. Educ. Rsch. J. 127 (2017), <https://cepa.stanford.edu/content/causal-effects-cultural-relevance-evidence-ethnic-studies-curriculum>.

22 ¹⁵⁵ Philene Harte-Weiner, *Improving Student Academic Performance through Anti-Bias Education*,
23 ProQuest (2013), <https://www.proquest.com/openview/be182f909a6df7da51f8fc56d25af92b/1.pdf?pq-origsite=gscholar&cbl=18750>.

24 ¹⁵⁶ Eddie Comeaux & Uma M. Jayakumar, *Education in the United States: Is it a Black Problem?*, 39
25 *Urb. Rev.* 93, 101 (2007).

26 ¹⁵⁷ See The Educational Opportunity Project at Stanford, <https://edopportunity.org/> (last visited June
27 4, 2023) (data accessible by download).

28 ¹⁵⁸ Kishan Lara-Cooper, *On Indian Ground: A Return to Indigenous Knowledge: Generating Hope, Leadership, and Sovereignty through Education* 13–14 (Joely Proudfit & Nicole Quinero Myers-Lim eds. 2017).

1 increased connection and participation, and improved educational outcomes for LGBTQ students.¹⁵⁹
2 And civics curricula that incorporate minority rights have led to “significantly higher levels of
3 tolerance” amongst students of all backgrounds.¹⁶⁰ The Resolution’s restrictions deprive students of
4 color and LGBTQ students of this security.

5 118. The Resolution also has a disparate adverse impact on teachers of color, who are
6 already underrepresented and subjected to discrimination in the teaching profession.¹⁶¹ In a survey of
7 the State’s TK–12 teachers, 62 percent of Black teachers and 54 percent of Asian American/Pacific
8 Islander teachers reported having experienced racial discrimination in their jobs.¹⁶² These teachers
9 may develop “racial battle fatigue” (the psychological, emotional, and physiological toll of
10 confronting racism in the school environment) that drives them out of the classroom.¹⁶³

11 119. Teachers also confront ideological recrimination. For example, those who introduce
12 basic concepts of gender or sexual orientation—as mandated by the State—are increasingly being
13 accused of “grooming” their students, particularly teachers who identify as LGBTQ.

14 120. These harms were foreseeable. During and since the December 13 Board meeting,
15 students, teachers, and community members have highlighted the Resolution’s disproportionate
16 injuries to individuals who identify as LGBTQ and/or of color. These students and teachers are also
17 bearing the burden of challenging the Resolution. They have had to divert their time and attention

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19 ¹⁵⁹ Joseph G. Kosciw, et al., *The 2019 National School Climate Survey: the Experiences of Lesbian,*
20 *Gay, Bisexual, Transgender, and Queer Youth in Our Nation’s Schools*, GLSEN (2020), [https://](https://www.glsen.org/sites/default/files/2021-04/NSCS19-FullReport-032421-Web_0.pdf)
21 www.glsen.org/sites/default/files/2021-04/NSCS19-FullReport-032421-Web_0.pdf.

22 ¹⁶⁰ Patricia G. Avery, *Teaching tolerance: What research tells us*, 66 Soc. Educ. 270–75 (2002).

23 ¹⁶¹ E.g., Cal. Dep’t of Educ., *Fingertip Facts on Education in California* (Mar. 15, 2023), [https://](https://www.cde.ca.gov/ds/ad/ceffingertipfacts.asp)
24 www.cde.ca.gov/ds/ad/ceffingertipfacts.asp (as of 2018–2019—the school year for which the most
25 recent data is available—38.8 percent of California’s public school teachers were people of color, as
26 compared to 79.9 percent of public school students in 2022–2023); Diana D’amico et al., *Where Are*
27 *All the Black Teachers? Discrimination in the Teacher Labor Market*, 87 Harv. Educ. Rev. 26, 38–39
28 (2017).

¹⁶² Hart Rsch. Assocs., *supra* note 30.

¹⁶³ Marcos Pizarro & Rita Kohli, “*I Stopped Sleeping*”: *Teachers of Color and the Impact of Racial*
Battle Fatigue, 55 Urb. Educ. 967, 969 (2020), <https://doi.org/10.1177/0042085918805788>. One
California teacher reported “hear[ing] an offensive comment, see[ing] teachers engage in an offensive
activity, or just feel[ing] alone” at least once a month. *Id.* at 980.

1 from their studies and jobs to organize protests, attend and provide public comment at Board
2 meetings, and educate themselves and the community about their histories and identities. As a result,
3 supporters of the Resolution have threatened them and their families, publicized their names and
4 pictures online, and created a website and social media accounts to disparage and harass them.¹⁶⁴

5 **B. Historical Background of the Resolution**

6 121. The Resolution follows a history of educational segregation in Temecula and the
7 Inland Empire. Following California’s statehood, Riverside County’s first superintendent entrenched
8 segregation in the region’s education system by restricting the transfer of students of color into better-
9 funded schools in white communities. Roughly contemporaneously, the County denied children of
10 immigrant farm and rail laborers entry into the local schools altogether.

11 **C. Sequence of Events Leading Up to the Resolution**

12 122. The specific sequence of events in the months leading up to the Board’s enactment of
13 the Resolution is detailed *supra* paras. 14–16.

14 123. More broadly, the Resolution is part of a spate of partisan and discriminatory
15 legislation that began in 2020 as a backlash to widespread protests for racial justice. The most
16 influential of these, former President Trump’s Executive Order 13950, banned a list of so-called
17 “divisive concepts” from federal contractors’ workplace trainings,¹⁶⁵ and soon became the template
18 for state and local copycat legislation,¹⁶⁶ including Resolution 21. In short order, “critical race
19 theory” became a catchall term for any efforts to further race, sex, sexual orientation, or gender
20 equity.¹⁶⁷ As Christopher Rufo—the activist who promoted the term in 2020¹⁶⁸— explained: “The
21

22 ¹⁶⁴ *Supra* paras. 55, 64.

23 ¹⁶⁵ Exec. Order 13950, 85 Fed. Reg. 60683 (issued Sept. 22, 2020; published Sept. 28, 2020). The
24 Biden Administration revoked Executive Order 13950 upon taking office. Exec. Order 13985, 86
Fed. Reg. 7009 (issued Jan. 20, 2021; published Jan. 25, 2021).

25 ¹⁶⁶ Laura Meckler & Josh Dawsey, *Republicans, spurred by an unlikely figure, see political promise*
26 *in targeting critical race theory*, Wash. Post (June 21, 2021), <https://www.washingtonpost.com/education/2021/06/19/critical-race-theory-rufo-republicans>.

27 ¹⁶⁷ See, e.g., King, *supra* note 22; Meckler & Dawsey, *supra* note 168.

28 ¹⁶⁸ Benjamin Wallace-Wells, *How a Conservative Activist Invented the Conflict Over Critical Race*

1 goal is to have the public read something crazy in the newspaper and immediately think ‘critical race
2 theory.’ We have decodified the term and will recodify it to annex the entire range of cultural
3 constructions that are unpopular with Americans.”¹⁶⁹

4 **D. Procedural and Substantive Irregularities**

5 124. The Board’s introduction and enactment of the Resolution were highly irregular, both
6 procedurally and substantively.¹⁷⁰

7 125. In its haste to pass the Resolution at its first meeting, the Board ignored its own
8 bylaws, which govern the Board’s development and adoption of new policies. Pursuant to Bylaw
9 9310, after “identify[ing] the need for a new policy,” the Board must “fully inform” itself about the
10 particular issue.¹⁷¹ This may include:

- 11 ○ Collecting information such as “fiscal data, staff[,] and public input,” related TVUSD
12 policies, and California School Boards Association (“CSBA”) sample policies;
- 13 ○ Holding “discussions during a public Board meeting” about staff recommendations,
14 community expectations, and the policy’s expected impact “on student learning and
15 well-being, equity, governance, and the district’s fiscal resources and operational
16 efficiency”; and
- Requesting that legal counsel review the draft policy.¹⁷²

17 After these steps, the Superintendent or designee (not the Board) must “develop and present a draft
18 policy for a first reading at a public Board meeting. At its second reading, the Board may take action

19 _____
20 *Theory*, New Yorker (June 18, 2021), <https://www.newyorker.com/news/annals-of-inquiry/how-a-conservative-activist-invented-the-conflict-over-critical-race-theory>.

21 ¹⁶⁹ Christopher F. Rufo (@realchrisrufo), Twitter (Mar. 15, 2021, 3:17 PM), <https://twitter.com/realchrisrufo/status/1371541044592996352?lang=en>, archived at <https://perma.cc/6MM5-GVW7>.

22 ¹⁷⁰ Irregularities have persisted since the Resolution’s enactment. For example, in February 2023, the
23 Board received two Brown Act complaints about private meetings between individual Board
24 members and a lawyer the Board later hired as special counsel. Jeff Horseman, *Did Temecula school
25 board break the law in hiring a special attorney?*, Press-Enterprise (Feb. 8, 2023), <https://www.pressenterprise.com/2023/02/08/did-temecula-school-board-break-the-law-in-hiring-a-special-attorney/>.

26 ¹⁷¹ TVUSD, *Bylaw 9310: Board Policies*, <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=FjHHRv159vykJIo68vdeWg==&ptid=amIgTZiB9plushNjl6WXhfiOQ==&secid=qo79RxbUbdO3GjATNVIJ7Q==&PG=6&IRP=0&isPndg=false>.

27 ¹⁷² *Id.*

1 on the proposed policy.”¹⁷³

2 126. There is no indication that prior to enacting the Resolution, the Board assessed fiscal
3 data; invited or reviewed input from District administrators, teachers, or staff; or examined related
4 TVUSD or CSBA policies. Nor did Board members, before drafting the Resolution, consult the
5 District’s legal counsel or discuss their underlying concerns at a public Board meeting—much less
6 consider the Resolution’s expected impact on student outcomes, course offerings (including A.P.
7 classes), and the District’s ability to operate effectively. The Board’s failure to examine, much less
8 acknowledge, these factors—which the Board “usually consider[s] important” and which “favor a
9 decision contrary to the one reached”—substantively departed from its normal decisionmaking.¹⁷⁴

10 127. The Resolution’s enactment deviated from Bylaw 9310 in other ways. For one,
11 members of the Board, instead of the Superintendent, authored the Resolution. For another, the Board
12 did not hold a first reading of the proposed Resolution to solicit public input before scheduling a
13 second reading and vote. Instead, it rushed headlong to enact the Resolution in a single meeting and
14 over vehement community objection.¹⁷⁵

15 128. As a curricular change, the Resolution also deviated from the Board’s written and
16 customary policies. For example, curricular changes are typically proposed by TVUSD’s Director of
17 Curriculum, Instruction, and Assessment for the relevant grade level(s).¹⁷⁶ In at least the 10 years
18 preceding the Resolution, no curricular changes were proposed by the Board itself.

19 129. Board Policy 6141 and its implementing regulation set out a specific process for
20

21 ¹⁷³ *Id.*

22 ¹⁷⁴ *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977).

23 ¹⁷⁵ Indeed, in his haste to laud his proposed Resolution, Defendant Komrosky failed to allow all other
24 Board members to comment before speaking, in violation of Board governance rules. TVUSD,
25 *TVUSD Governance Handbook 2021-2022* 7 (2021), <https://drive.google.com/file/d/15kxqGrwhqRzSNxPDMS7hWnjHQ48OXJ7-/view>, *archived at* <https://perma.cc/833Z-DAJJ>.

26 ¹⁷⁶ As noted *supra*, there is no indication that Board members discussed the proposed Resolution with
27 any of the District administrators responsible for “the development, planning, implementation, and
28 evaluation” of the District’s instructional programs. TVUSD, *TVUSD Organization Chart 6.30* (June
2023), https://drive.google.com/file/d/1KNUWo9gOWiwVwAppF5a_rIkRywWWDJLd/view,
archived at <https://perma.cc/J77B-VVXW>.

1 revising District curriculum, which requires the Board to ground its decisionmaking in the
2 professional judgments of District teachers and administrators. Moreover, Board policy expressly
3 mandates that the District’s curriculum align with “the District’s vision and goals for student
4 learning,” which include increasing the percentage of students meeting State performance
5 standards,¹⁷⁷ as well as with “Board policies, academic content standards, state curriculum
6 frameworks, state and district assessments, graduation requirements, school and district improvement
7 plans, and” related legal requirements where applicable.¹⁷⁸ The Board’s failure to consider the
8 Resolution’s impact on curricular alignment with *any* of these factors is highly aberrant.

9 **E. Legislative History of the Resolution**

10 130. As described *supra* paras. 124–129, the Resolution’s legislative history was
11 characterized by multiple procedural and substantive irregularities that are probative of
12 discriminatory intent.

13 131. Comments made by Board members, Arend, and the Resolution’s supporters in the
14 lead-up to its enactment also evince animus toward people of color and LGBTQ people.

17 ¹⁷⁷ TVUSD, *Policy 0200: Goals For the School District*, <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=YviGHmz263hSEtMMsx0lew=&PG=6&st=aligned&mt=Exact>.

19 ¹⁷⁸ TVUSD, *Policy 6141: Curriculum Development And Evaluation*,
20 <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=gzplustvVLghI3WefrcJIKZCA=&PG=6&st=academic%20content%20standards&mt=Exact>. Alignment with State standards is required throughout the Board’s policies, including Board Policy 6011, which provides:

21 District content standards for English language arts, English language development,
22 mathematics, science, health education, history-social science, physical education,
23 visual and performing arts, world languages, career technical education, and transitional
24 kindergarten education **shall meet or exceed statewide model content standards**
25 adopted by the State Board of Education or the State Superintendent of Public
Instruction as applicable.

26 TVUSD, *Policy 6011: Academic Standards*, <https://simbli.eboardsolutions.com/Policy/ViewPolicy.aspx?S=36030186&revid=XX1du1Q2p5slsh9L5JKr3Yk1g=&ptid=amIgtZiB9plushNj16WXhfiOQ=&secid=ruE8yj8gaZHBkLjNHwMKZw=&PG=6&IRP=0&isPndg=false> (emphasis added).

1 (i) **Racial animus**

2 Defendant Board members and their supporters have made multiple statements denying the
3 existence of racial inequality and espousing racially discriminatory stereotypes.

- 4 ○ In a campaign interview with Thompson, Defendant Wiersma stated:

5 [W]hat’s so interesting to me is that every skin color has both been a slave and owned
6 a slave. And so when you look at that, and where we are in the world today,
7 trafficking, slavery still exists. . . . They’re going to be held back only if we get mixed
8 up in these conversations where kids walk away feeling like they’re bitter and have a
9 chip on their shoulder.¹⁷⁹

- 10 ○ At the IEF PAC candidate draft, Defendant Gonzalez stated:

11 [F]ifteen days after the death of George Floyd—they . . . signed a resolution in
12 Temecula Valley reaffirming their commitment to promote equity. Right? And we
13 know that equity is this fluffy word that they use. And it essentially means that . . .
14 we’re going to disseminate [critical race theory] through every part of this education
15 system.¹⁸⁰

- 16 ○ During the same campaign event, Defendant Komrosky criticized an “antiracist
17 pledge” sponsored by his instructors’ union at Mount San Antonio College. He
18 repeated allegations that the pledge “would bring in CRT” and that “rational
19 discussion” would be labeled “white supremacism.”¹⁸¹

- 20 ○ The Board has spent thousands of dollars in public monies for the services of its
21 consultant Arend, who has dismissed systemic racism as a “myth” that is “peddle[d]”
22 by “[r]ace hustler[s]” “to corporations and other audiences, in effect, selling
23 dispensation.”¹⁸² According to Arend, “[r]acial prejudice can only be systemic if the
24 system is designed to reflect racial bias, which has not been the case since the civil
25 rights legislation in the 1960s.”¹⁸³ Arend has espoused multiple offensive stereotypes
26 about Black Americans, for example, attributing “arrests of blacks” not to “racial
27 prejudice” but to “socio-economic and cultural causes, such as the gangster sub-

28 ¹⁷⁹ Our Watch, *Jen Wiersma // TVUSD School Board Candidate // School Board Series*, YouTube (Sept. 20, 2022), <https://www.youtube.com/watch?v=AkewhkedCZM>.

¹⁸⁰ IEF PAC Draft, *supra* note 34, at 0:32:42, <https://youtu.be/7wEBdcbRUnG?t=1962>.

¹⁸¹ *Id.* at 0:41:25, <https://youtu.be/7wEBdcbRUnG?t=2485>.

¹⁸² Christopher Arend, *The myth of ‘systemic racism’*, Cal Coast News (Sept. 2, 2020), <https://calcoastnews.com/2020/09/the-myth-of-systemic-racism/>, archived at <https://perma.cc/3BA5-PRY2>. Systemic racism is racism “embedded in laws, policies[,] and institutions that uphold and reproduce racial inequalities.” NAACP Legal Defense Fund, *Critical Race Theory Frequently Asked Questions* (2023), <https://www.naacpldf.org/critical-race-theory-faq/>.

¹⁸³ Arend, *supra* note 184.

1 culture, poverty, poor education, growing up in homes without a father, etc.”¹⁸⁴

2 **(ii) Animus on the basis of sexual orientation and sex**

3 Defendant Board members and their supporters have repeatedly voiced animus toward
4 LGBTQ students expressing and learning about their identities.

5 ○ During her campaign, Defendant Wiersma lauded a parent who removed a book “with
6 some gay elements” from a District school.¹⁸⁵ Wiersma stated: “It’s the boots on the
ground that find [such books] and report it that makes all difference.”¹⁸⁶

7 ○ At the IEF PAC candidate draft, Defendant Komrosky stated:

8 When teachers . . . can tell the kids, “If you’re a boy and you feel like dressing like a
9 girl, if you’re a girl you’re dressing like a boy,” I saw an instance of that . . . with my
own eyes in our community, and I don’t want my son to be affected by it.¹⁸⁷

10 ○ In a campaign interview with Thompson, Defendant Komrosky stated:

11 I want more parental involvement. More parents visiting campuses, in the classroom.
12 That way when somebody shows up, like, you know, a guy wearing a dress, and
13 students are feeling uncomfortable, that kind of stuff will stop if there’s a parent in the
classroom.¹⁸⁸

14 As he explained to Thompson: “[M]y concern is harm to the kids. Because they don’t
15 understand that kind of abstract thinking, like, ‘What does it mean for me to change my
16 gender?’ . . . That stuff is evil.”¹⁸⁹

17 Finally, Komrosky invoked anti-LGBTQ conspiracy theories: “I talked to a sixth grade
18 teacher at Bella Vista Middle School. This teacher was saying that in between their

19 ¹⁸⁴ *Id.* These stereotypes ignore the well-documented effects of racial profiling and over-policing on
20 arrest rates in communities of color. *See, e.g.,* Magnus Lofstrom et al., *Racial Disparities in Law*
21 *Enforcement Stops*, Pub. Pol’y Inst. of Cal. (Oct. 2021), [https://www.ppic.org/publication/racial-](https://www.ppic.org/publication/racial-disparities-in-law-enforcement-stops/)
22 *disparities-in-law-enforcement-stops/* (Black Californians are more than twice as likely to be
searched as white Californians, and searches of Black people are less likely to yield contraband and
evidence than searches of white people).

23 ¹⁸⁵ Jen Wiersma (@jen4tvusd), Instagram (Oct. 29, 2022), [https://www.instagram.com/p/](https://www.instagram.com/p/CkUZc61JGCD/?hl=en)
24 *CkUZc61JGCD/?hl=en*.

25 ¹⁸⁶ *Id.*

26 ¹⁸⁷ IEF PAC Draft, *supra* note 34, at 0:42:35, <https://youtu.be/7wEBdcbRUng?t=2555>.

27 ¹⁸⁸ Our Watch, *Dr. Joseph Komrosky // TVUSD School Board Candidate // School Board Series* at
0:03:58, YouTube (Sept. 13, 2022), <https://youtu.be/ksIG4qARwu4?t=237>.

28 ¹⁸⁹ *Id.* at 0:05:47, <https://youtu.be/ksIG4qARwu4?t=347>.

1 PowerPoints were flashes of rainbow symbol—signals. It’s like, it’s just all around.”¹⁹⁰

- 2 ○ Defendant Komrosky’s campaign website embeds a video that disparages LGBTQ-
3 inclusive books and asserts that State-mandated comprehensive sexuality education
4 “teaches children to embrace subjective sexual and gender identities, if need be, through
5 the force of law.”¹⁹¹ The video further claims that such education aims to “destroy the
6 nuclear family as the indispensable support of a healthy society”; “teaches that all
7 arrangements and groupings of consenting adults are equally valid”; and “seeks to
8 undermine parental authority” by challenging “conventional understanding[s] of sex and
9 gender.”¹⁹²

10 Since the Resolution’s enactment, Board members have continued to express bias and
11 condone discrimination against LGBTQ people and communities. As discussed *supra* para. 112, the
12 Board has censored instruction on the LGBTQ rights movement and Harvey Milk based on a noxious
13 and unfounded stereotype linking LGBTQ people to pedophilia.¹⁹³ And most recently, Defendant
14 Komrosky has called for the removal of multiple books with LGBTQ themes from TVUSD
15 libraries.¹⁹⁴

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20 ¹⁹⁰ *Id.* at 0:08:24, <https://youtu.be/ksIG4qARwu4?t=504>.

21 ¹⁹¹ Protect Our Kids, *What is Comprehensive Sexuality Education* at 0:04:21, YouTube (July 27,
22 2020), <https://youtu.be/5eU0gydb8Gc?t=261>.

23 ¹⁹² *Id.* at 0:04:47, <https://youtu.be/5eU0gydb8Gc?t=287>.

24 ¹⁹³ Joining Komrosky and Gonzalez, Defendant Wiersma professed to be acting on behalf of parents
25 who told her: “I don’t want my third grader studying LGBTQ issues. I don’t want them going into
26 gender ideology. I don’t want them looking at it.” May 16 Board Meeting at 1:49:11, https://youtu.be/ABcKfZu7_pU?t=6551.

27 ¹⁹⁴ TVUSD, *supra* note 56 (listing books including *Beyond Magenta: Transgender Teens Speak Out*
28 by Susan Kuklin, *Two Boys Kissing* by David Levithan, and *Looking for Alaska* by John Green); see
generally Hannah Natanson, *Objection to sexual, LGBTQ content propels spike in book challenges*,
Wash. Post (May 23, 2023), <https://www.washingtonpost.com/education/2023/05/23/lgbtq-book-ban-challengers/>.

1 **CAUSES OF ACTION**

2 **COUNT ONE**

3 **Violation of Article I, Section 7(a) of the California Constitution**
4 **Void for Vagueness**
5 **Teacher Plaintiffs¹⁹⁵ Against All Defendants**

6 132. All prior paragraphs are incorporated by reference.

7 133. Article I, section 7(a) of the California Constitution provides that a “person may not be
8 deprived of life, liberty, or property without due process of law.”¹⁹⁶

9 134. A law is “void for vagueness if its prohibitions are not clearly defined.”¹⁹⁷ A law is
10 impermissibly vague if it either fails to give a “person of ordinary intelligence . . . a reasonable
11 opportunity to know what is prohibited” or “creat[es] a danger of arbitrary and discriminatory”
12 enforcement.¹⁹⁸

13 135. Resolution 21 is unconstitutionally vague on its face because it fails to provide fair
14 notice of what Temecula educators can and cannot say in their courses. It also authorizes arbitrary
15 and discriminatory enforcement.

16 136. By way of example only, teachers do not know what “other similar frameworks” they
17 are prohibited from introducing. Nor do they know what, if any, classroom discussions of racism or
18 gender discrimination are permissible under the Resolution.

19 137. The Resolution provides no standards to guide its enforcement.

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27 ¹⁹⁵ “Teacher Plaintiffs” are Plaintiffs TVEA, Eytchison, Miles, Scharf, and Sibby.

28 ¹⁹⁶ Cal. Const., art. I, § 7.

¹⁹⁷ *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972).

¹⁹⁸ *Snatchko*, 187 Cal. App. 4th at 495.

1 **COUNT TWO**

2 **Violation of Article I, Section 2(a) of the California Constitution**
3 **Infringement of Right to Receive Information**
4 **Student Plaintiffs,¹⁹⁹ Plaintiffs Rachel P., Inez B., Teacher Plaintiffs, Against All Defendants**

5 138. All prior paragraphs are incorporated by reference.

6 139. The Free Speech Clause of the California Constitution protects the right to receive
7 information and ideas.²⁰⁰ These rights are “more protective, definitive[,] and inclusive of rights to
8 expression of speech than their federal counterparts.”²⁰¹

9 140. A curricular restriction violates students’ right to receive information and ideas where
10 it is not reasonably related to a legitimate pedagogical purpose.²⁰² Curricular decisions “cannot be
11 motivated by an intent to prescribe what shall be orthodox in politics, nationalism, religion, or other
12 matters of opinion.”²⁰³

13 141. The Resolution violates the Free Speech Clause, both on its face and as applied,
14 because it restricts students’ access to ideas and viewpoints on a partisan, sectarian, and
15 discriminatory basis.

16 142. To the extent that the Resolution could be interpreted to have any legitimate
17 pedagogical purpose—which it does not—it is overbroad, because a substantial number of its
18 applications are unconstitutional.²⁰⁴

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23 ¹⁹⁹ “Student Plaintiffs” are Plaintiffs Mae M., Susan C., Gwen S., Carson L., David P., Violet B., and
24 Stella B.

25 ²⁰⁰ *McCarthy v. Fletcher*, 207 Cal. App. 3d 130, 144 (1989).

26 ²⁰¹ *San Diego Unified Port Dist. v. U.S. Citizens Patrol*, 63 Cal. App. 4th 964, 970 (1998) (quoting
27 *Lopez v. Tulare Joint Union High Sch. Dist.*, 34 Cal. App. 4th 1302, 1327 (1995)).

28 ²⁰² *McCarthy*, 207 Cal. App. 3d at 145.

²⁰³ *Id.* at 146 (quoting *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943)) (internal
quotation marks omitted).

²⁰⁴ *United States v. Stevens*, 559 U.S. 460, 473 (2010).

1 **COUNT THREE**

2 **Violation of Article I, Section 7 and Article IV, Section 16(a) of the California Constitution**
3 **Equal Protection – Infringement of the Fundamental Right to Education**
4 **Student Plaintiffs, Plaintiffs Rachel P., Inez B., Teacher Plaintiffs Against All Defendants**

5 143. All prior paragraphs are incorporated by reference.

6 144. Education is a fundamental right under the California Constitution.²⁰⁵ Where
7 government action “impinges a fundamental right,” strict scrutiny applies “irrespective of motive or
8 intent.”²⁰⁶

9 145. Government action impinges on the fundamental right to education where it denies
10 certain students “an education basically equivalent to that provided elsewhere throughout the
11 State.”²⁰⁷

12 146. By restricting the teaching and learning of content and disciplinary skills mandated
13 under California’s academic standards, the Board has denied, and continues to deny, Temecula
14 students “an education basically equivalent” to what students elsewhere in the State are receiving.²⁰⁸

15 **COUNT FOUR**

16 **Violation of Article I, Section 7 and Article IV, Section 16(a) of the California Constitution**
17 **Equal Protection – Intentional Discrimination on the Basis of Race**
18 **Plaintiffs Mae M., Susan C., Gwen S., Carson L., Violet B., Stella B., Inez B., Miles, TVEA**
19 **Against All Defendants**

20 147. All prior paragraphs are incorporated by reference.

21 148. Article I, section 7(a) of the California Constitution provides that a person “may not be
22 deprived of life, liberty, or property without due process or denied equal protection of the laws.”²⁰⁹

23 149. Article I, section 7(b) of the California Constitution provides that “[a] citizen or class
24 of citizens may not be granted privileges or immunities not granted on the same terms to all

25 ²⁰⁵ *Serrano*, 5 Cal. 3d at 605–09.

26 ²⁰⁶ *Vergara v. State of California*, 246 Cal. App. 4th 619, 648 n.13 (2016).

27 ²⁰⁷ *Butt*, 4 Cal. 4th at 685.

28 ²⁰⁸ *Id.*

²⁰⁹ Cal. Const. art. I, § 7(a).

1 citizens.”²¹⁰

2 150. Article IV, section 16(a) of the California Constitution requires “[a]ll laws of a general
3 nature” to “have uniform operation.”²¹¹

4 151. A plaintiff alleging intentional discrimination need only show that discriminatory
5 purpose was a “motivating factor” behind the challenged action; it need not be the “dominant” or
6 “primary” consideration.²¹²

7 152. Ascertaining discriminatory purpose “demands a sensitive inquiry into such
8 circumstantial and direct evidence of intent as may be available.”²¹³ *Arlington Heights* sets forth a
9 non-exhaustive list of factors relevant to ascertaining discriminatory purpose, including (1) evidence
10 of disparate impact,²¹⁴ (2) the decision’s historical background, (3) the sequence of events leading up
11 to the decision, (4) the decisionmaker’s departures from normal procedures or substantive
12 conclusions, and (5) the decision’s legislative or administrative history.²¹⁵

13 153. Applying these factors demonstrates that the Resolution was enacted—at a minimum,
14 in part—with the purpose of discriminating against students and teachers of color. The Resolution
15 expressly singles out for censorship the teaching of concepts related to race and racism, from which
16 students of color derive the most benefit. It is the outgrowth of racial hostility, as seen in the events
17 leading up to its passage. Finally, its enactment was characterized by procedural and substantive
18 irregularities and overt expressions of racial animus, raising a strong inference of discriminatory
19 intent.
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23 ²¹⁰ *Id.* § 7(b).

24 ²¹¹ Cal. Const. art. IV, § 16(a).

25 ²¹² *Arlington Heights*, 429 U.S. at 265–66.

26 ²¹³ *Id.* at 266.

27 ²¹⁴ The fact that the disparate impact is “foreseeable and anticipated” is also “relevant evidence” of
28 discriminatory purpose. *Columbus Bd. of Educ. v. Penick*, 443 U.S. 449, 464–65 (1979) (citation
omitted).

²¹⁵ *Arlington Heights*, 429 U.S. at 266–68.

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COUNT FIVE

**Violation of Article I, Section 7 and Article IV, Section 16(a) of the California Constitution
Equal Protection – Intentional Discrimination on the Basis of Sexual Orientation and Sex
Plaintiffs Gwen S., TVEA Against All Defendants**

154. All prior paragraphs are incorporated by reference.

155. Applying the *Arlington Heights* factors also demonstrates the Board’s intent to discriminate against LGBTQ students and teachers on the basis of sexual orientation and sex. The Board’s enactment of the Resolution and excision of concepts from instruction expressly single out for censorship the teaching of concepts related to sex (and, as indicated by Board members’ comments, sexual orientation and gender identity). LGBTQ students, like other students from marginalized communities, benefit significantly from representation and recognition in schools’ formal curricula, and are thus disproportionately harmed by the removal of curricular content related to sex, sexual orientation, and gender identity. LGBTQ teachers are deterred from expressing their own identities or even mentioning their families in the classroom. Anti-LGBTQ sentiment pervaded the school board campaign and continues to be expressed by Board members as they implement the Resolution. As set out *supra*, major irregularities in the Resolution’s enactment, the Board’s decision to remove LGBTQ-related content from the District’s history and social science curriculum and instructional materials, and Board members’ overtly anti-LGBTQ statements raise a strong inference of discriminatory intent.

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COUNT SIX

**Violation of California Government Code Section 11135
Discrimination on the Basis of Protected Characteristics
Plaintiffs Mae M., Susan C., Gwen S., Carson L., Violet B., Stella B., Inez B., Miles, TVEA
Against All Defendants**

156. All prior paragraphs are incorporated by reference.

157. California Government Code section 11135(a) provides:

No person in the State of California shall, on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, . . . or sexual orientation, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state.

1 158. The provision of education in TVUSD is a program that receives financial assistance
2 from the State.

3 159. As described *supra* paras. 111–131, the Resolution unlawfully subjects Plaintiffs Mae
4 M., Susan C., Gwen S., Carson L., Violet B., Stella B., Inez B., and Miles, as well as members of
5 Plaintiff TVEA, to intentional discrimination on the basis of race, color, ancestry, national origin, and
6 ethnic group identification.²¹⁶

7 160. As described *supra* paras. 114–120, the Resolution unlawfully subjects Plaintiffs Mae
8 M., Susan C., Gwen S., Carson L., Violet B., Stella B., Inez B., and Miles, as well as members of
9 Plaintiff TVEA, to disparate impact discrimination on the basis of race, color, ancestry, national
10 origin, and ethnic group identification.

11 161. As described *supra* paras. 114–117 and 120, the Resolution unlawfully subjects
12 Plaintiffs Mae M., Susan C., Violet B., and Stella B., to disparate impact discrimination on the basis
13 of sex.

14 162. As described *supra* paras. 111–131, the Resolution unlawfully subjects Plaintiff Gwen
15 S. to intentional discrimination on the basis of sexual orientation and sex.

16 163. As described *supra* paras. 114–117 and 119–120, the Resolution unlawfully subjects
17 students and teachers who identify as LGBTQ, including Plaintiff Gwen S., to disparate impact
18 discrimination on the basis of sexual orientation and sex.

19 **COUNT SEVEN**

20 **Violation of California Code of Civil Procedure Section 526a**
21 **Unlawful Expenditure of Taxpayer Funds**
22 **Teacher Plaintiffs, Plaintiffs Rachel P., Inez B. Against All Defendants**

22 164. All prior paragraphs are incorporated by reference.

23 165. Section 526a, subdivision (a) of the California Code of Civil Procedure provides:

24 An action to obtain a judgment, restraining and preventing any illegal expenditure of,
25 waste of, or injury to, the estate, funds, or other property of a local agency, may be
26 maintained against any officer thereof, or any agent, or other person, acting in its
27 behalf, either by a resident therein, or by a corporation, who is assessed for and is

27 ²¹⁶ Section 11135’s implementing regulations treat these categories synonymously. *See, e.g.*, Cal.
28 Code Regs. tit. 2, § 11161(b).

1 liable to pay, or, within one year before the commencement of the action, has paid, a
2 tax that funds the defendant local agency[]²¹⁷

3 166. Plaintiffs Eytchison, Miles, Scharf, Sibby, Rachel P., and Inez B., as well as members
4 of Plaintiff TVEA (“Taxpayer Plaintiffs”), have been assessed and found liable to pay taxes in, and/or
5 have paid an assessed tax to, Riverside County, the State of California, and the United States in the
6 last year.

7 167. Defendants’ expenditure of federal, State, county, and/or municipal funds to
8 administer a system of education that contravenes the California Constitution and California
9 antidiscrimination statutes, as challenged herein, is unlawful. Taxpayer Plaintiffs have a well-
10 recognized interest in enjoining the unlawful expenditure of tax funds.

11 168. There is an actual controversy between Taxpayer Plaintiffs and Defendants concerning
12 their respective rights and duties. Taxpayer Plaintiffs contend that Defendants’ policies and/or
13 practices violate the California Constitution and California antidiscrimination statutes, whereas
14 Defendants are likely to contend in all respects to the contrary.

15 169. Unless and until Defendants’ unlawful policies and practices are enjoined by this
16 Court, they will continue to cause great and irreparable injury to Taxpayer Plaintiffs.

17 **REQUEST FOR RELIEF**

18 Plaintiffs request the following relief:

- 19 a. An Order declaring that Defendants, through Resolution 21 and the related actions,
20 omissions, policies, and/or practices complained of, violate:
- 21 i. Article I, section 7(a) of the California Constitution (void for vagueness);
 - 22 ii. Article I, section 2(a) of the California Constitution (infringement of the
23 right to receive information);
 - 24 iii. Article I, section 7 and Article IV, Section 16(a) of the California
25 Constitution (violation of equal protection);
 - 26 iv. California Government Code section 11135; and
 - 27 v. California Code of Civil Procedure section 526a.

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²¹⁷ Cal. Code Civ. Proc. § 526a(a).

- 1 b. Injunctive relief requiring Defendants to cease their unlawful actions, omissions,
2 policies, and/or practices, including by ceasing to implement and enforce
 Resolution 21;
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4 c. Costs and reasonable attorney’s fees; and
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6 d. Such other relief as this Court deems just and proper.

7 Dated: August 2, 2023

8 **By: PUBLIC COUNSEL**

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10 s/ Amanda Mangaser Savage

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Counsel for Plaintiffs

EXHIBIT 1

RESOLUTION NO. 2022-23/21

**RESOLUTION OF THE BOARD OF TRUSTEES OF
THE TEMECULA VALLEY UNIFIED SCHOOL
DISTRICT
PROHIBITING THE TEACHING OF CRITICAL RACE
THEORY**

WHEREAS, All Students deserve a high-quality education and experience in the Temecula Valley Unified School District ("TVUSD" or the "District"); and

WHEREAS, Nothing in this resolution shall require any staff member to violate local, state, or federal law; and

WHEREAS, The TVUSD Board of Education affirms its requirement that teachers rely on the Board of Education adopted curriculum as the authoritative source for the context of instruction; and

WHEREAS, The TVUSD values all students, respects diversity, celebrates the contributions of all, and encourages culturally relevant and inclusive teaching practices. The TVUSD further believes that the diversity that exists among the District's community of students, staff, parents, guardians, and community members is an asset to be honored and valued; and

WHEREAS, The TVUSD believes that people should "not be judged by the color of their skin but by the content of their character" (Dr. Martin Luther King, 1963) ; and

WHEREAS, The TVUSD desires to uplift and unite students by not imposing the responsibility of historical transgressions in the past and instead will engage students of all cultures in age-appropriate critical thinking that helps students navigate the past, present, and future; and

WHEREAS, racism has no place in American society and especially not in the Temecula Valley Unified School District ("TVUSD" or the "District"); and

WHEREAS, the TVUSD condemns racism and will not tolerate racism and racist conduct (see, Board Resolution ##### dated ##### (cite policy against racism here); and

WHEREAS, Critical Race Theory ("CRT") is an ideology based on false assumptions about the United States of America and its population; and

WHEREAS, the definitional foundation of Critical Race Theory involving an artificial distortion of the traditional definition of "racism" is fatally flawed; and

WHEREAS, Critical Race Theory is a divisive ideology that assigns moral fault to individuals solely on the basis of an individual's race and, therefore, is itself a racist ideology; and

WHEREAS, Critical Race Theory assigns generational guilt and racial guilt for conduct and policies that are long in the past; and

WHEREAS, Critical Race Theory violates the fundamental principle of equal protection under the law; and

WHEREAS, Critical Race Theory views social problems primarily as racial problems and, thus, detracts from analysis of underlying socio-economic causes of social problems; and

WHEREAS, Critical Race Theory or other similar frameworks will not be used as a source to guide how topics related to race will be taught; and

WHEREAS, the Board of Trustees of the TVUSD has the legal authority to determine the curriculum taught in the TVUSD within the parameters set by law; and

WHEREAS, the Board of Trustees can require teachers to teach the curriculum approved by the Board of Trustees; and

WHEREAS, the laws of the United States of America and the State of California do not require that Critical Race Theory be taught in public schools (grades K-12); and

NOW, THEREFORE, BE IT RESOLVED on the 13th day of December, 2022, by the Board of Trustees of the Temecula Valley Unified School District:

Critical Race Theory is rejected and will not constitute the basis for any instruction in the TVUSD. The following specific elements of Critical Race Theory cannot be taught:

1. Racism is racial prejudice plus power, a concept that is often used to argue that (i) only individuals classified as "white" people can be racist because only "white" people control society and (ii) individuals in ethnic minorities cannot be racist because they do not control society.
2. Racism is ordinary, the usual way society does business.
3. "Interest convergence" or "material determinism", according to which the incentive to move away from racist policies depends primarily on the self-interest of the oppressor class, i.e. "whites".
4. "Differential racialization", according to which the "dominant society racializes different

minority groups at different times, in response to different needs such as the labor market"¹;

5. The "voice-of-color" thesis, according to which merely "minority status ... brings with it a presumed competence to speak about race and racism"², a concept often used to discredit opposing arguments on the basis of the opposing person's race;

FURTHERMORE, the following doctrines derived from Critical Race Theory cannot be taught:

- a. An individual, by virtue of his or her race or sex, is inherently racist and/or sexist, whether consciously or unconsciously.
- b. Individuals are either a member of the oppressor class or the oppressed class because of race or sex.
- c. An individual is inherently morally or otherwise superior to another individual because of race or sex.
- d. An individual should be discriminated against or receive adverse treatment due to the individual's race or sex, or an individual should receive favorable treatment due to the individual's race or sex.
- e. An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past or present by other members of the same race or sex.
- f. An individual should feel discomfort, guilt, anguish or any other form of psychological distress on account of his or her race or sex.
- g. Meritocracy or traits such as, but not limited to, a hard work ethic or the scientific method are racist or sexist or were created by members of a particular race to oppress members of another race.
- h. The advent of slavery in the territory that is now the United States constituted the true founding of the United States, or the preservation of slavery was a material motive for independence from England.

Notwithstanding the above restrictions, social science courses can include instruction about Critical Race Theory, provided that such instruction plays only a subordinate role in the overall course and provided further that such instruction focuses on the flaws in Critical Race Theory.

ADOPTED this 13th day of December, 2022, on motion of Trustee #####, seconded by Trustee #####, on the following roll call vote:

¹ Richard Delgado, Jean Stefancic, and Angela Harris, *Critical Race Theory*, 3rd edition (New York: NYU Press, 2017), 10.

² Delgado, Stefancic, and Harris, 11.

AYES: __: _____

NOES: __: _____

APPROVE:

####, President

ATTEST:

####, Board Clerk

DRAFT