

1 ADVOCATES FOR FAITH & FREEDOM
2 Robert Tyler (SBN 179572)
3 btyler@faith-freedom.com
4 Julianne Fleischer (SBN 337006)
5 jfleischer@faith-freedom.com
6 25026 Las Brisas Road
7 Murrieta, California 92562
8 Telephone: (951) 600-2733
9 Attorneys for Plaintiff Alyssa Esquivel

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

12 **ALYSSA ESQUIVEL**, an individual,

13 Plaintiff(s)

14 v.

15 **SAN GABRIEL UNIFIED SCHOOL**
16 **DISTRICT; JAMES SYMONDS**,
17 both in his personal capacity and in his
18 official capacity as San Gabriel Unified
19 School District Superintendent; **ROSS**
20 **PERRY**, both in his personal capacity
21 and in his official capacity as San
22 Gabriel Unified School District
Assistant Superintendent of Human
Resources; **Muhammad Abdul-Qawi**,
both in his personal capacity and in his
official capacity as Del Mar High
School Principal.

23 Defendant(s).

Case No.: 2:24-cv-06335-MCS-SK

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

- 1) **DEPRIVATION OF THE
FREEDOM OF SPEECH**
- 2) **FIRST AMENDMENT
RETALIATION**
- 3) **PROCEDURAL VIOLATION
OF THE DUE PROCESS
CLAUSE**
- 4) **SUBSTANTIVE VIOLATION
OF THE DUE PROCESS
CLAUSE**
- 5) **TITLE VII
DISCRIMINATION**
- 6) **TITLE VII DISPARATE
TREATMENT**
- 7) **TITLE VII RETALIATION**
- 8) **FAIR EMPLOYMENT AND
HOUSING ACT VIOLATION**

INTRODUCTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. This Action challenges the San Gabriel Unified School District’s (“District”) censorship, discrimination, and retaliation against Alyssa Esquivel (“Ms. Esquivel”) for her Christian faith and political expression.

2. Since October 2022, Ms. Esquivel has been a dedicated and hard-working American Sign Language (“ASL”) aide for the deaf within the District, ensuring deaf students receive exceptional academic experiences.

3. She is well-liked and well-appreciated by her pupils, who would not otherwise be able to participate in school without her ASL services. She has never received a complaint about her job performance.

4. However, after colleagues disparaged Ms. Esquivel and expressed their dislike for her Christian faith and Trump-themed backpack and water bottle, the District began to unlawfully censure Ms. Esquivel for bringing those items to school campus.

5. The District directed Ms. Esquivel to refrain from displaying or otherwise bringing her backpack and water bottle to school campus.

6. The District eventually placed Ms. Esquivel on an indefinite administrative leave, suspended her without pay, and threatened her dismissal for continuing to engage in protected speech. Ms. Esquivel is currently suspended without pay.

7. The District’s actions violate Ms. Esquivel’s First Amendment right to free speech, her right to be free from retaliation against the legitimate exercise of her free speech, her Due Process rights under the Fifth and Fourteenth Amendments, her rights under Title VII of the Civil Rights Act of 1964, her rights under California’s Fair Employment and Housing Act, and her right under the California Labor Code to hold unwelcome political views without threat of discharge.

1 23. Well-versed in ASL interpreting services for students, Ms. Esquivel
2 personally assists deaf students in one-on-one assignments to ensure the students
3 meet their Individualized Education Program (“IEP”) objectives.

4 24. Ms. Esquivel has gone above and beyond in her work as an ASL
5 Special Education Instructional Aide. It is because of her valuable work, talent, and
6 skills that deaf students in the District get to participate in school and receive a high-
7 quality education.

8 25. Ms. Esquivel has never received a poor performance review from
9 the District or complaints about the quality of her work or effort while working at
10 the District.

11 **B. The District’s Mistreatment of Ms. Esquivel**

12 26. Ms. Esquivel became the target of her co-workers’ contempt in
13 May 2023, when a classroom aide, Eugenia Dana, began a practice of verbally
14 insulting Ms. Esquivel.

15 27. On or about May 26, 2023, Ms. Dana repeatedly chastised Ms.
16 Esquivel about how it was “unfair” that Ms. Esquivel’s work schedule permitted her
17 to leave work earlier than Ms. Dana and the other classroom aides.

18 28. Ms. Esquivel reported Ms. Dana’s verbal insults to her classroom’s
19 lead teacher Mike Williams, and to then-Principal Muhammad Abdul-Qawi
20 (“Defendant Abdul-Qawi”), but they failed to investigate, address, or reprimand Ms.
21 Dana.

22 29. The District did not record or otherwise document Ms. Esquivel’s
23 report regarding Ms. Dana’s behavior.

24 30. Ms. Esquivel had a practice of reading during her break times, and
25 she would often read religious books.
26
27
28

1 31. Sometime in early June 2023, after seeing some of Ms. Esquivel’s
2 religious books while she was on her break, lead teacher Mr. Williams told Ms.
3 Esquivel to “tone it down with [her] faith beliefs.”

4 32. Again, in early June 2023, Principal Abdul-Qawi, after seeing Ms.
5 Esquivel reading one of her religious books on her break, told her to hide her
6 religious books out of sight.

7 33. On or about June 1, 2023, and on or about June 12, 2023, Ms.
8 Esquivel again tried to meet with lead teacher Mr. Williams, Ms. Dana, and
9 Defendant Abdul-Qawi to discuss the tension between herself and Ms. Dana.
10 Because of Ms. Dana’s unwillingness and unavailability, neither meeting occurred.

11 34. Neither lead teacher Mr. Williams nor Defendant Abdul-Qawi
12 required a meeting or discussion with Ms. Dana despite Ms. Esquivel raising
13 concerns about Ms. Dana’s treatment of her.

14 35. Ms. Dana’s behavior escalated on or about June 15, 2023, when she
15 moved Ms. Esquivel’s water bottle (which sported several stickers depicting
16 presidents, including one of former-President Trump) (Exhibit 1) to a location out
17 of Ms. Esquivel’s reach.

18 36. When Ms. Esquivel asked Ms. Dana not to interfere with her
19 personal items, Ms. Dana ordered her—in front of a classroom full of students—to
20 “shut up.”

21 37. Ms. Dana stated that she “didn’t want Trump looking at [her],” a
22 sentiment another classroom aide, Jennifer Drake, echoed when Ms. Drake added,
23 “I asked you [Ms. Esquivel] not to bring in that Trump stuff.”

24 38. No student had commented or complained about Ms. Esquivel’s
25 water bottle.

26 39. Ms. Esquivel reported the aides’ outburst to the onsite coordinator,
27 Ernest Lemus, but the District did not investigate or address this incident.

28

1 40. The District did not record or otherwise document Ms. Esquivel’s
2 report regarding the aides’ behavior.

3 41. The next day, on or about June 16, 2023, Ms. Esquivel and lead
4 teacher Mr. Williams entered their classroom to find Ms. Dana had flipped a desk
5 over and was throwing files around. She yelled that Ms. Esquivel was “not going to
6 put it [the water bottle] on my desk and taunt me with him [Donald Trump].”

7 42. Ms. Esquivel had placed her belongings on the now-flipped desk
8 since the beginning of the schoolyear without issue.

9 43. The desk where Ms. Esquivel placed her water bottle was a shared
10 desk used by all the classroom aides to place their belongings, including their water
11 bottles and lunch bags.

12 44. To Ms. Esquivel’s knowledge, the desk did not belong to Ms. Dana
13 or any other aide.

14 45. Consequently, Principal Abdul-Qawi held a staff meeting with Ms.
15 Esquivel, Ms. Dana and Ms. Drake, lead teacher Mr. Williams, and a third aide,
16 Omar Velasquez. This meeting opened with Ms. Dana demanding, “Can she [Ms.
17 Esquivel] stop bringing in the Trump stuff?”

18 46. Despite Principal Abdul-Qawi’s answer that Ms. Esquivel could
19 continue bringing her personal belongings to work, this meeting provided no clear
20 resolution to the conflict between Ms. Esquivel and the aides.

21 47. The District did not report or otherwise address Ms. Dana’s violent
22 outburst of flipping a desk over and throwing files.

23 48. In the following weeks, the other aides continued to mistreat Ms.
24 Esquivel, ignoring her and refusing to use her ASL interpreting services to
25 communicate with the deaf student in the classroom.

26 49. The aides’ refusal to utilize Ms. Esquivel’s ASL interpreting
27 services interfered with the deaf student’s ability to follow along in class and
28

1 participate in various school activities because he could not understand what the
2 other aides were communicating.

3 50. Because of her co-workers' treatment of her, Ms. Esquivel filed a
4 formal discrimination and harassment complaint with the District on or about June
5 28, 2023.

6 51. On information and belief, Ms. Dana submitted a complaint against
7 Ms. Esquivel over the phone to Assistant Superintendent Ross Perry ("Defendant
8 Perry") on the same day.

9 52. On or about July 5, 2023, Principal Abdul-Qawi directed Ms.
10 Esquivel not to display her Trump-themed backpack and water bottle in public.

11 53. This was in reference to Ms. Esquivel's souvenir backpack that
12 bore "T-R-U-M-P" lettering over an American flag background. *See* Exhibit 2.

13 54. Ms. Esquivel asked for a policy or law that supported this directive
14 to not display her backpack in public, but Principal Abdul-Qawi did not provide Ms.
15 Esquivel with any District policy or law that supported this directive.

16 55. Principal Abdul-Qawi told her that she could not accompany her
17 deaf student on the class's field trip that afternoon unless she left her backpack
18 behind in the classroom under a desk.

19 56. To ensure her deaf student had access to her ASL interpreter
20 services on the field trip, Ms. Esquivel complied with Defendant Abdul-Qawi's
21 directive.

22 57. As she went to return her backpack to the classroom, Ms. Esquivel
23 earned a further rebuke from Principal Abdul-Qawi when he noticed her American
24 flag-themed jewelry and said that she was "lucky" he did not "write her up."

25 58. On or about July 6, 2023, Principal Abdul-Qawi invited Ms.
26 Esquivel to meet with him to discuss the work conflicts with her colleagues and to
27
28

1 discuss whether she would be permitted to bring her Trump-themed backpack to
2 campus.

3 59. At this meeting, Principal Abdul-Qawi detained Ms. Esquivel for a
4 period of three hours while intermittently prioritizing other affairs unrelated to Ms.
5 Esquivel.

6 60. This lengthy delay meant that Ms. Esquivel was unable to attend a
7 school outing where she would have provided ASL interpreting services for deaf
8 students.

9 61. When Ms. Esquivel and Principal Abdul-Qawi did speak, they
10 discussed whether she would be permitted to bring her Trump-themed backpack to
11 school.

12 62. Defendant Abdul-Qawi never addressed the aides' comments about
13 Ms. Esquivel's work schedule, the aides' disparaging remarks about Ms. Esquivel's
14 water bottle and backpack, or Ms. Dana's violent outburst related to Ms. Esquivel's
15 Trump-themed water bottle.

16 63. Following this meeting, Principal Abdul-Qawi allowed Ms.
17 Esquivel to return to class with her water bottle and backpack but directed her not to
18 display her water bottle and backpack.

19 64. Ms. Esquivel asked for the relevant policy or law that prohibited
20 her from displaying her backpack and water bottle. Principal Abdul-Qawi did not
21 provide her with any policy or law to support his directive.

22 **C. The District's Policies**

23 65. Ms. Esquivel continued to bring her Trump-themed water bottle
24 and backpack with her to school campus believing she had a First Amendment right
25 to do so.

26 66. On or about July 11, 2023, the District's Human Resources
27 Superintendent Ross Perry ("Defendant Perry") emailed Ms. Esquivel with the
28

1 directive that she could not “display any political attire while the students [were] in
2 session” pursuant to California Education Code section 7054.

3 67. California Education Code section 7054 states, in relevant part,
4 “No school district or community college district funds, services, supplies, or
5 equipment shall be used for the purpose of urging the support or defeat of any ballot
6 measure or candidate, including, but not limited to, any candidate for election to the
7 governing board of the district.”

8 68. At no point in time during her employment with the District did Ms.
9 Esquivel wear any “political attire.”

10 69. At no point in time during her employment with the District did Ms.
11 Esquivel use district funds, services, supplies, or equipment for the purpose of urging
12 the support or defeat of any candidate.

13 70. Neither her backpack nor her water bottle contained any messages
14 that urged the support or defeat of any candidate.

15 71. Ms. Esquivel met with Defendant Perry that afternoon, where he
16 gave her a copy of Education Code section 7054 and told her that she could not
17 “have” her Trump backpack, but that she could “have” an American flag.

18 72. Defendant Perry directed Ms. Esquivel not to bring her backpack
19 and water bottle to campus or otherwise display these items.

20 73. After seeking outside legal counsel regarding the applicability of
21 Education Code section 7054 and determining that the statute did not apply in this
22 instance, Ms. Esquivel returned to school on July 12, 2023, with her water bottle and
23 backpack.

24 74. In an effort to comply with Defendant Perry and Defendant Abdul-
25 Qawi’s directive to not display her Trump-themed backpack, Ms. Esquivel used a
26 patch to cover a portion of the word “T-R-U-M-P” on her backpack, so that only the
27 letters “T-R-U” were visible. *See* Exhibit 3.

28

1 75. After Ms. Esquivel’s arrival to school campus, lead teacher Mr.
2 Williams alerted Defendant Perry that Ms. Esquivel had brought her backpack to
3 school campus.

4 76. Defendant Perry again informed Ms. Esquivel that she was not
5 permitted to display her water bottle and backpack. Relying on California Education
6 Code 7054(c), Defendant Perry threatened Ms. Esquivel with fines and
7 imprisonment for bringing her water bottle and backpack to school.

8 77. Ms. Esquivel requested the relevant District policy that prohibited
9 her from bringing or otherwise displaying her Trump-themed water bottle and
10 backpack to school.

11 78. Rather than provide a basis for his threats or any applicable District
12 policy, Defendant Perry told Ms. Esquivel that she was banned from campus, and
13 that effective immediately, she would be placed on involuntary administrative leave.

14 79. Defendant Perry did not inform Ms. Esquivel of the period of time
15 she would remain on administrative leave.

16 80. Defendant Perry had the police escort Ms. Esquivel off the
17 premises, humiliating her in front of her colleagues and pupils.

18 81. On or about July 20, 2023, Ms. Esquivel received a letter from
19 Defendant Perry reiterating that she had been placed on paid administrative leave on
20 July 12, 2023, and that she had been directed to “physically and remotely stay away
21 from District property, including all campuses and school sponsored events.” See
22 Exhibit 4.

23 82. In this letter, Defendant Perry also represented that Ms. Esquivel’s
24 paid summer assignment ended on July 14, 2023, that she would not be paid while
25 on summer break, and that her pay would resume when the work year began on
26 August 17, 2023. *Id.*

27
28

1 83. Defendant Perry told Ms. Esquivel that while she was “on paid
2 administrative leave,” she was “directed to remain available by telephone and
3 personal email during [] normal work hours, so that [she] can be contacted if the
4 need arises.” *Id.*

5 84. The letter did not communicate how long Ms. Esquivel would
6 remain on administrative leave.

7 85. On or about August 17, 2023, Defendant Perry sent Ms. Esquivel
8 an email informing her that she was still on administrative leave. Defendant Perry
9 stated that the “District will soon make a determination regarding the
10 insubordination you exhibited at the end of the summer school, and I will follow up
11 with you soon.” *See* Exhibit 5.

12 86. In this email, Defendant Perry also informed Ms. Esquivel that he
13 was “still wrapping up the investigation into the complaint made against [her] and
14 the complaint that [she] made against a co-worker” and that he “should be completed
15 with that soon.” *Id.*

16 87. The email did not communicate how long Ms. Esquivel would
17 remain on administrative leave.

18 **D. Ms. Esquivel’s June 2023 Complaint**

19 88. Following the filing of her June 28, 2023,
20 discrimination/harassment complaint, the District conducted an investigation.

21 89. As part of its investigation, the District reviewed Ms. Esquivel’s
22 complaint, documents received from Ms. Esquivel and conducted interviews with
23 Ms. Esquivel and seven witnesses.

24 90. Defendant Perry interviewed Ms. Esquivel on or about July 11,
25 2023.

26 91. On or about December 8, 2023, the District issued “Findings of
27 Fact” regarding Ms. Esquivel’s June 2023 discrimination/harassment complaint.
28

1 92. The District found that the allegations made in the complaint were
2 not sustained by the evidence and closed the complaint.

3 93. On information and belief, on the same day, the District likewise
4 found that the allegations made in Ms. Dana’s complaint against Ms. Esquivel were
5 not sustained by the evidence and also closed Ms. Dana’s complaint.

6 94. The District issued its decision on Ms. Esquivel’s complaint 163
7 days after Ms. Esquivel submitted her complaint, violating District Regulation 4030,
8 which requires a written decision to be sent to the complainant within 20 days from
9 the receipt of the complaint. *See* Exhibit 6.

10 95. Pursuant to District Regulation 4030, the 20-day timeline may be
11 extended for good cause. *Id.* If an extension is needed, the parties shall be notified
12 and informed of the reasons for the extension. *Id.*

13 96. At no point in time after Ms. Esquivel filed her complaint on June
14 28, 2023, did the District notify Ms. Esquivel of any good cause for an extension or
15 that an extension was needed.

16 97. Pursuant to District Regulation 4030, Ms. Esquivel timely appealed
17 the District’s decision.

18 98. The District again violated District Regulation 4030 by failing to
19 schedule a hearing regarding Ms. Esquivel’s appeal.

20 99. On or about January 24, 2024, without conducting a hearing, the
21 District denied her appeal and closed her complaint.

22 **E. The District’s Allegations**

23 100. Ms. Esquivel continued on paid administrative through the duration
24 of 2023 and through June 2024.

25 101. She did not receive any communication from the District regarding
26 how long she would remain on administrative leave.

27
28

1 102. After nearly six months with no communication from the District
2 regarding her employment status, on February 15, 2024, Ms. Esquivel’s lawyer sent
3 a demand letter to Defendant Perry, Defendant Abdul-Qawi, and Defendant James
4 Symonds, District Superintendent, requesting Ms. Esquivel’s immediate
5 reinstatement.

6 103. Five days later, on or about February 20, 2024, and after not
7 sending any previous communication to Ms. Esquivel regarding her employment
8 status since August 17, 2023, the District sent Ms. Esquivel a Notice of Proposed
9 Intent to Suspend and Recommend Dismissal, and Statement of Charges.

10 104. In this Notice, the District stated cause existed to terminate Ms.
11 Esquivel and accused her of (1) inefficiency, (2) insubordination, (3) discourteous
12 treatment of colleagues, (4) improper political activity, (5) violation of District
13 policy, and (6) failure to exercise good behavior in violation of District AR 4218.

14 105. The letter invited Ms. Esquivel to attend a *Skelly* hearing, or in the
15 alternative, submit a written response to the District’s allegations.

16 106. This letter provided no explanation for why the District waited until
17 five days after Ms. Esquivel’s demand letter to recommend her suspension and
18 dismissal, when it could have done so seven months earlier.

19 107. On or about February 22, 2024, the District followed up with a
20 second letter that provided District Regulation 4219.25 as an additional basis for the
21 District’s allegations against Ms. Esquivel.

22 108. Prior to this February 22, 2024, letter, the District had not
23 previously cited or identified District Regulation 4219.25 as a basis for its directive
24 that Ms. Esquivel does not display or otherwise bring her Trump-themed backpack
25 and water bottle to school campus.

26 109. In relevant part, District Regulation 4219.25(9) and (10) provide
27 that district employees cannot “[p]resent viewpoints on a particular candidate or
28

1 ballot measures in the classroom without giving equal time to the presentation of
2 opposing views,” nor can they “[w]ear buttons or articles of clothing that express
3 political opinions on ballot measures or candidates during instructional time.” See
4 Exhibit 7.

5 110. In its February 22, 2024, letter – which neglected to mention any
6 kind of *Skelly* hearing—the District offered Ms. Esquivel the opportunity to resign
7 “in lieu of being terminated by the District.”

8 111. On or about April 15, 2024, Ms. Esquivel responded to the
9 District’s February 20, 2024, letter in lieu of appearing at the *Skelly* hearing. In this
10 response, Ms. Esquivel denied the six charges against her.

11 112. On or about April 26, 2024, Defendant Perry informed Ms.
12 Esquivel that the District administration would be moving forward with its
13 recommendation to the Governing Board (“Board”) that she be suspended without
14 pay and dismissed.

15 113. On or about April 30, 2024, the Board approved Ms. Esquivel’s
16 suspension without pay pending her dismissal.

17 114. Ms. Esquivel requested a formal hearing contesting the
18 recommendation for her suspension without pay and dismissal.

19 115. On September 19, 2024, after an administrative hearing before
20 Hearing Officer Jose A. Gonzales on July 24, 2024, Hearing Officer Gonzales
21 determined cause existed for the termination of Ms. Esquivel’s employment with the
22 District.

23 116. On information and belief, on or about September 24, 2024, the
24 District’s Board of Education terminated Ms. Esquivel’s employment.

25 117. On or about April 29, 2024, Ms. Esquivel obtained a right-to-sue
26 notice from the Equal Employment Opportunity Commission (“EEOC”). See
27 Exhibit 8.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FIRST CAUSE OF ACTION
Deprivation of Civil Rights Under 42 U.S.C. § 1983
Violation of the Free Speech Clause of the
First Amendment to the United States Constitution

118. Plaintiff re-alleges and incorporates by reference the allegations in the preceding paragraphs 1 through 117, as if fully set forth herein.

Pursuant to 42 U.S.C. § 1983, Ms. Esquivel brings this claim against the District for acting under the color of state law to deprive her of rights secured by the U.S. Constitution.

119. “The First Amendment’s protections extend to ‘teachers and students,’ neither of whom ‘shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.’” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 522 (2022) (quoting *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503, 506 (1969)).

120. Ms. Esquivel’s political expression is fully protected under the First Amendment, which prohibits the government from “abridging the freedom of speech.” This prohibition applies to state and local governments through the Fourteenth Amendment.

121. A public employee’s speech is protected by the First Amendment when she “speaks on a matter of public concern” as a “private citizen.” *Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 961 (9th Cir. 2011).

122. The message(s) displayed on Ms. Esquivel’s Trump-themed backpack and water bottle are matters of public concern because they relate to the “political, social, or other concern to the community.” *Lane v. Franks*, 573 U.S. 228, 241 (2014).

123. Ms. Esquivel’s spoke as a private citizen because she “had no official duty to make the questioned statements . . . [and] the speech was not the

1 product of perform[ing] the tasks [she] was paid to perform.” *Dodge v. Evergreen*
2 *Sch. Dist. #114*, 56 F.4th 767, 778 (9th Cir. 2022).

3 124. Ms. Esquivel had no official duty to utilize a Trump-themed water
4 bottle or backpack, and neither were required to perform her job. The District did
5 not issue or pay for Ms. Esquivel’s backpack and water bottle.

6 125. The District’s directive that Ms. Esquivel does not bring her
7 Trump-themed backpack and water bottle to campus or otherwise display these
8 items censored Ms. Esquivel’s speech by prohibiting her from speaking on matters
9 of public concern as a private citizen.

10 126. The District’s directive that Ms. Esquivel does not bring her
11 Trump-themed backpack and water bottle to campus or otherwise display these
12 items regulates Ms. Esquivel’s speech, including her political expression, based on
13 its communicative content, which is a content-based restriction and is presumptively
14 unconstitutional.

15 127. Specifically, the District ordered Ms. Esquivel to refrain from
16 bringing her Trump-themed backpack and water bottle to school with her or
17 otherwise displaying these items, which stifles her political expression.

18 128. A policy “aim[ed] at the suppression’ of views” is flatly
19 prohibited. *Iancu v. Brunetti*, 139 S. Ct. 2294, 2302 (2019).

20 129. District Regulation 4219.25 does not require or support the
21 District’s directive that Ms. Esquivel not bring her Trump-themed backpack and
22 water bottle to campus or otherwise display these items.

23 130. District Regulation 4219.25 does not prohibit employees from
24 engaging in all political activity and it does not prohibit employees from bringing or
25 displaying personal items, like a backpack, that contain political expression on
26 campus.

27
28

1 131. The District’s directive, as applied, constitutes unconstitutional
2 conditions because it allows the District to dismiss Ms. Esquivel for legitimately
3 expressing unwelcome political speech. *Perry v. Sindermann*, 408 U.S. 593, 597
4 (1972).

5 132. The District’s directive requiring Ms. Esquivel to refrain from
6 displaying her Trump-themed backpack and water bottle, as applied, is not narrowly
7 tailored to meet any compelling government interest.

8 133. The free speech violation is “all the more blatant” in a situation
9 such as the one here, where the District threatened to terminate Ms. Esquivel while
10 letting her colleagues – who lashed out in opposition to the message(s) on Ms.
11 Esquivel’s backpack and water bottle – go unpunished. *Rosenberger v. Rector and*
12 *Visitors of University of Virginia*, 515 U.S. 819, 829 (1995).

13 134. The District has no compelling reason to prohibit a teacher from
14 bringing personal items to school that display only the last name or image of a former
15 president.

16 135. The District has no compelling interest in enforcing its directive
17 because the directive is not required by California or federal law.

18 136. As a direct and proximate result of Defendants’ violation of the
19 First Amendment, Ms. Esquivel has suffered, and will suffer, irreparable harm,
20 including the loss of her fundamental constitutional rights, entitling her to
21 declaratory and injunctive relief against the individual Defendants.

22 137. Additionally, Plaintiff is entitled to nominal damages and
23 compensatory damages against the individual Defendants in their individual
24 capacity in an amount to be proven at trial, and attorneys’ fees under 42 U.S.C. §
25 1988.

26
27
28

1 **SECOND CAUSE OF ACTION**

2 **Deprivation of Civil Rights Under 42 U.S.C. § 1983**

3 **First Amendment Retaliation**

4 138. Plaintiff re-alleges and incorporates by reference the allegations in
5 the preceding paragraphs 1 through 137, as if fully set forth herein.

6 139. This cause of action is brought pursuant to 42 U.S.C. § 1983 and
7 the First and Fourteenth Amendments to the United States Constitution.

8 140. Clearly established law bars the government from retaliating
9 against Americans for exercising their constitutional rights and from taking actions
10 designed to deter people from exercising their constitutional rights. *See, e.g.,*
11 *Pickering v. Bd. of Ed. of Tp. High Sch. Dist. 205, Will County, Ill.*, 391 U.S. 563,
12 574 (1968) (“[A] teacher's exercise of his right to speak on issues of public
13 importance may not furnish the basis for his dismissal from public employment.”).

14 141. A public employee’s speech is protected by the First Amendment
15 when she “speaks on a matter of public concern” as a “private citizen.” *Johnson v.*
16 *Poway Unified Sch. Dist.*, 658 F.3d 954, 961 (9th Cir. 2011).

17 142. The message(s) displayed on Ms. Esquivel’s Trump-themed
18 backpack and water bottle are matters of public concern because they relate to the
19 “political, social, or other concern to the community.” *Lane v. Franks*, 573 U.S. 228,
20 241 (2014).

21 143. Ms. Esquivel’s spoke as a private citizen because she “had no
22 official duty to make the questioned statements . . . [and] the speech was not the
23 product of perform[ing] the tasks [she] was paid to perform.” *Dodge v. Evergreen*
24 *Sch. Dist. #114*, 56 F.4th 767, 778 (9th Cir. 2022).

25 144. Ms. Esquivel had no official duty to utilize a Trump-themed water
26 bottle or backpack, and neither were required to perform her job. The District did
27 not issue or pay for Ms. Esquivel’s backpack and water bottle.

28

1 145. Ms. Esquivel engaged in protected speech when she brought her
2 Trump-themed backpack and water bottle to campus.

3 146. Neither California Education Code section 7054 nor District
4 Regulation 4219.25 require or support the District’s directive that Ms. Esquivel not
5 bring her Trump-themed backpack and water bottle to campus or otherwise display
6 these items.

7 147. Education Code section 7054 prohibits the use of district funds,
8 services, supplies or equipment to urge the passage or defeat of a candidate.

9 148. Ms. Esquivel’s backpack and water bottle were personal items she
10 purchased with her own money, not district funds.

11 149. Neither her backpack nor her water bottle contained a message that
12 urged the passage or defeat of a candidate.

13 150. District Regulation 4219.25(10) prohibits employees from wearing
14 “articles of clothing” that express political opinions on candidates.

15 151. Ms. Esquivel’s backpack and water bottle are not articles of
16 clothing.

17 152. The District retaliated against Ms. Esquivel because of the speech
18 expressed on her backpack and water bottle by placing her on administrative leave,
19 failing to provide her with information regarding her employment status for six
20 months, threatening her with her dismissal after she sought legal help, suspending
21 her without pay, and eventually terminating her employment.

22 153. The District terminated Ms. Esquivel’s employment and failed to
23 provide an adequate policy to justify its actions.

24 154. The District presented its Directive in a take-it-or-leave-it manner
25 because it failed to find a solution or compromise that would have allowed Ms.
26 Esquivel to continue using her personal items in spite of her colleagues’ disdain for
27 the items.

28

1 162. The District had a practice of depriving Ms. Esquivel of her due
2 process during her employment with the District and while she was on administrative
3 leave.

4 163. Two weeks after Ms. Esquivel filed her formal complaint, Ms.
5 Esquivel was placed on involuntary administrative leave on July 12, 2023.

6 164. The District violated District Regulation 4030 which requires that
7 “no more than 20 business days after receiving the complaint, the coordinator shall
8 conclude the investigation and prepare a written report of the findings.” *See* Exhibit
9 6.

10 165. Defendant Perry did not provide a written report of the findings
11 regarding Ms. Esquivel’s complaint until after the District had placed her on
12 administrative leave and over 160 days after she filed her complaint with the District.

13 166. The District did not identify good cause for an extension of time to
14 complete the investigation or otherwise notify Ms. Esquivel that it would not have a
15 written report of its findings completed within 20 business days.

16 167. District Regulation 4030 also requires that the Board of Education
17 schedule a hearing “as soon as practicable” upon receiving a complainant’s appeal
18 of any findings. *See* Exhibit 6.

19 168. The District violated District Regulation 4030 when the District,
20 without holding a hearing on her appeal, denied her appeal.

21 169. Additionally, employees have the right to respond to disciplinary
22 charges in an evidentiary hearing before the discipline takes effect. *See Skelly v.*
23 *State Personnel Bd.*, 539 P.2d 774, 780 (Cal. 1975).

24 170. The District placed Ms. Esquivel on involuntary administrative
25 leave on July 12, 2023.

26
27
28

1 171. Ms. Esquivel did not receive any information, communication, or
2 updates regarding her employment status from August 17, 2023, until on or about
3 February 2024.

4 172. On February 20, 2024, five days after Ms. Esquivel’s lawyer sent a
5 demand letter requesting that Ms. Esquivel be reinstated to her position, the District
6 lodged six allegations against Ms. Esquivel.

7 173. The District’s February 20, 2024, letter provided no explanation as
8 to why the District waited until five days after Ms. Esquivel’s demand letter to
9 recommend her suspension and dismissal, when it could have done so seven months
10 earlier.

11 174. The District effectively deprived Ms. Esquivel of her interest in her
12 employment by failing to inform or communicate the status of Ms. Esquivel’s
13 employment for nearly seven months.

14 175. In its February 22, 2024, correspondence – which neglected to offer
15 any kind of *Skelly* hearing – the District told Ms. Esquivel she could resign from her
16 position with the District “in lieu of being terminated by the District.”

17 176. Based upon this District communication, the result of Ms.
18 Esquivel’s employment – termination – was predetermined before she participated
19 in a proper *Skelly* hearing.

20 177. As a direct and proximate result of Defendants’ violation of the
21 First Amendment, Ms. Esquivel has suffered, and will suffer, irreparable harm,
22 including the loss of her fundamental constitutional rights, entitling her to
23 declaratory and injunctive relief against the individual Defendants.

24 178. Additionally, Plaintiff is entitled to nominal damages and
25 compensatory damages against the individual Defendants in their individual
26 capacity in an amount to be proven at trial, and attorneys’ fees under 42 U.S.C. §
27 1988.

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FOURTH CAUSE OF ACTION

**Substantive Violation of the Due Process Clause
to the United States Constitution
(42 U.S.C. § 1983)**

179. Plaintiff re-alleges and incorporates by reference the allegations in the preceding paragraphs 1 through 178, as if fully set forth herein.

180. 42 U.S.C. § 1983 allows plaintiffs to sue people for depriving them of “any rights, privileges, or immunities secured by the Constitution and laws.”

181. The Fourteenth Amendment guarantees that the States may never deprive a person of their interest in “life, liberty, or property” without “due process of the law.” U.S. Const. amend. XIV, § 1.

182. Generally speaking, laws must “define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement.” *Kolender v. Lawson*, 461 U.S. 352, 357 (1983).

183. District Regulation 4219.25 unconstitutionally restricts the ability of Ms. Esquivel to engage in First Amendment activities.

184. District Regulation 4219.25 contains various terms and phrases that are impermissibly vague and ambiguous.

185. District Regulation 4219.25 fails to define what it means to “urge the passage or defeat of any ballot measure or candidate” or to “express political opinions” about candidates.

186. Further, District Regulation 4219.25 does not define “articles of clothing” or “candidate.”

187. Further, District Regulation 4219.25 permits unbridled discretion by allowing the District to determine what messages will warrant the suppression of speech.

1 195. At all relevant times, Ms. Esquivel diligently performed her ASL
2 interpreting services for the District.

3 196. While working for the District, Ms. Esquivel did not receive any
4 poor or negative performance reviews.

5 197. The District discriminated against Ms. Esquivel because of her
6 Christian faith.

7 198. Multiple District employees made disparaging remarks regarding
8 Ms. Esquivel’s Christian faith, including one District employee who told her to
9 “tone” it down with her “faith beliefs.” Defendant Abdul-Qawi told her to put her
10 religious books away while she was reading them on a work break.

11 199. Following these remarks about her faith, the District refused to
12 address Ms. Esquivel’s reports of her colleagues’ disparaging comments about her
13 Trump-themed backpack and water bottle.

14 200. Following these remarks about her faith, the District began to
15 censor Ms. Esquivel’s political expression by directing her not to display or
16 otherwise bring her Trump-themed backpack and water bottle to school campus.

17 201. Because Ms. Esquivel refused to follow the District’s directive to
18 conceal her Trump-themed backpack and water bottle on school campus, the District
19 placed Ms. Esquivel on administrative leave for nearly a year and then suspended
20 her without pay.

21 202. By suspending her without pay, the District has effectively
22 discharged Ms. Esquivel. The Governing Board has also recommended her
23 dismissal.

24 203. As a direct and proximate result of Defendants’ violation of Title
25 VII, Plaintiff has suffered, and will suffer, harm in the loss of her employment and/or
26 employment benefits, entitling her to declaratory and injunctive relief and damages.

27
28

1 **SIXTH CAUSE OF ACTION**

2 **Title VII Disparate Treatment**

3 **(42 U.S.C. § 2000e–2(a))**

4 204. Plaintiff re-alleges and incorporates by reference the allegations in
5 the preceding paragraphs 1 through 203, as if fully set forth herein.

6 205. Title VII of the Civil Rights Act of 1964 prohibits an employer
7 from discriminating against its employees because of their sincerely held religious
8 beliefs. *See* 42 U.S.C. § 2000e–2(a).

9 206. Title VII prohibits an employer from engaging in disparate
10 treatment of its employees. *Id.* Disparate treatment occurs “where an employer has
11 treated a particular person less favorably than others because of a protected trait.”
12 *Wood v. City of San Diego*, 678 F.3d 1075, 1081 (9th Cir. 2012).

13 207. At all relevant times, Ms. Esquivel diligently performed her ASL
14 interpreting services for the District.

15 208. While working for the District, Ms. Esquivel did not receive any
16 poor or negative performance reviews.

17 209. The District discriminated against Ms. Esquivel because of her
18 Christian faith.

19 210. Multiple District employees made disparaging remarks regarding
20 Ms. Esquivel’s Christian faith, including one District employee who told her to
21 “tone” it down with her “faith beliefs.” Defendant Abdul-Qawi told her to put her
22 religious books away while she was reading them on a work break.

23 211. Following these remarks about her faith, the District refused to
24 address Ms. Esquivel’s reports of her colleagues’ disparaging comments about her
25 Trump-themed backpack and water bottle.

1 212. Following these remarks about her faith, the District began to
2 censor Ms. Esquivel’s political expression by directing her not to display or
3 otherwise bring her Trump-themed backpack and water bottle to school campus.

4 213. Because Ms. Esquivel refused to follow the District’s directive to
5 conceal her Trump-themed backpack and water bottle on school campus, the District
6 placed Ms. Esquivel on administrative leave for nearly a year and then suspended
7 her without pay.

8 214. By suspending her without pay, the District has effectively
9 discharged Ms. Esquivel. The Governing Board has also recommended her
10 dismissal.

11 215. The District treated Ms. Esquivel disparately by punishing her for
12 engaging in constitutionally protected activities.

13 216. After months with little to no communication from the District, Ms.
14 Esquivel sought legal help and demanded her reinstatement on or about February
15 15, 2024.

16 217. On or about February 20, 2024, the District responded by
17 expressing its intent to dismiss her from employment.

18 218. On information and belief, the District did not discipline any
19 District employee for their disparaging comments regarding Ms. Esquivel’s faith and
20 political expression.

21 219. As a direct and proximate result of Defendants’ violation of Title
22 VII, Plaintiff has suffered, and will suffer, harm in the loss of her employment and/or
23 employment benefits, entitling her to declaratory and injunctive relief and damages.

24
25
26
27
28

1 **SEVENTH CAUSE OF ACTION**

2 **Title VII Retaliation**

3 **(42 U.S.C. § 2000e–2(a))**

4 220. Plaintiff re-alleges and incorporates by reference the allegations in
5 the preceding paragraphs 1 through 219, as if fully set forth herein.

6 221. Title VII of the Civil Rights Act of 1964 prohibits employers from
7 retaliating against employees who “oppose a practice that Title VII forbids” or who
8 “made a charge, testified, assisted, or participated in a Title VII investigation,
9 proceeding, or hearing.” 42 U.S.C. § 2000e-3(a); *see also Burlington Northern and*
10 *Sante Fe Ry. Co. v. White*, 548 U.S. 53, 59 (2006) (internal quotation marks omitted).

11 222. Multiple District employees made disparaging remarks regarding
12 Ms. Esquivel’s Christian faith, including one District employee who told her to
13 “tone” it down with her “faith beliefs.” Defendant Abdul-Qawi told her to put her
14 religious books away while she was reading them on a work break.

15 223. Following these remarks about her faith, the District refused to
16 address Ms. Esquivel’s reports of her colleagues’ disparaging comments about her
17 Trump-themed backpack and water bottle.

18 224. Following these remarks about her faith, the District began to
19 censor Ms. Esquivel’s political expression by directing her not to display or
20 otherwise bring her Trump-themed backpack and water bottle to school campus.

21 225. Because Ms. Esquivel refused to follow the District’s directive to
22 conceal her Trump-themed backpack and water bottle on school campus, the District
23 retaliated against Ms. Esquivel by placing her on administrative leave for nearly a
24 year and then suspended her without pay.

25 226. By suspending her without pay, the District has effectively
26 discharged Ms. Esquivel. The Governing Board has also recommended her
27 dismissal.

1 233. Following these remarks about her faith, the District began to
2 censor Ms. Esquivel’s political expression by directing her not to display or
3 otherwise bring her Trump-themed backpack and water bottle to school campus.

4 234. Because Ms. Esquivel refused to follow the District’s directive to
5 conceal her Trump-themed backpack and water bottle on school campus, the District
6 placed Ms. Esquivel on administrative leave for nearly a year and then suspended
7 her without pay.

8 235. By suspending her without pay, the District has effectively
9 discharged Ms. Esquivel. The Governing Board has also recommended her
10 dismissal.

11 236. As a direct and proximate result of Defendants’ violation of FEHA,
12 Plaintiff has suffered loss of employment and employment benefits, entitling her to
13 declaratory and injunctive relief and damages.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays for relief against defendants:

- 16 1. Nominal damages for violation of her civil rights;
- 17 2. Damages for Plaintiff in an amount to be proven at trial;
- 18 3. A declaratory judgment that the District violated Plaintiff’s First
19 Amendment rights;
- 20 4. Temporary, preliminary, and permanent injunctive relief enjoining
21 Defendants from dismissing Plaintiff and/or taking any adverse employment action
22 against Plaintiff;
- 23 5. For costs, attorneys’ fees and interest, as allowed by law; and
- 24 6. For such other relief that the Court determines is proper.

25 DATED: September 27, 2024 ADVOCATES FOR FAITH & FREEDOM

26 By: /s/ Julianne Fleischer
27 Julianne Fleischer, Esq.
28 Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I have read the foregoing **FIRST AMENDED VERIFIED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF AND DAMAGES** and know its contents.

I am Plaintiff in this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.

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

Executed on 9/26/24, at Covina, California.

Alyssa Esquivel
Alyssa Esquivel (Sep 27, 2024 15:48 PDT)

Alyssa Esquivel