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16 RAY SHELTON

17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 RAY SHELTON,
20 Plaintiff(s),

21 vs.

22 GLENDALE UNIFIED SCHOOL
23 DISTRICT; BOARD OF EDUCATION
24 OF THE GLENDALE UNIFIED
25 SCHOOL DISTRICT; VIVIAN
26 EKCHIAN; DARNEIKA WATSON,
27 individually, and in her official capacity
28 as Chief Human Resources and
Operations Officer and Superintendent;
KATHLEEN CROSS, individually, and
in her official capacity as a Board of
Education member; INGRID GUNNELL,
individually, and in her official capacity
as a Board of Education member; SHANT
SAHAKIAN, individually, and in her
official capacity as a Board of Education
member; JENNIFER FREEMON,
individually, and in her official capacity
as a Board of Education member;

Case No. 2:23-cv-10427-CBM-SSC

SECOND AMENDED COMPLAINT
FOR INJUNCTIVE/DECLARATORY
RELIEF AND DAMAGES:

**Violations of 42 U.S.C. § 1983 [First
and Fourteenth Amendments] and
California Constitution, Article I, § 2**

Jury Trial Demanded

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NAYIRI NAHABEDIAN, individually,
and in her official capacity as a Board of
Education member; KRISTINE TONOLI,
Defendants.

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STATEMENT OF JURISDICTION AND VENUE

1. This Court has original subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1343 as Plaintiff alleges that Defendants are violating 42 U.S.C. § 1983 by depriving him, under color of state law, of rights, privileges, and immunities secured by the First Amendment to the United States Constitution and incorporated against Defendants by the Fourteenth Amendment.

2. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) as a substantial part of the events and omissions giving rise to the claims alleged herein occurred and are occurring in this district.

INTRODUCTION

3. “If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.” *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

4. This premise has been the law of the land for the better part of the last century.

5. In recent years, however, certain political activists and their ideologue supporters in government, have been attempting to chip away at this principle by arguing that speech—and even silence itself—is “violence.”

6. The plaintiff in this case, Ray Shelton, is the victim of these government actors.

7. Mr. Shelton was a fifth-grade teacher employed by the Glendale Unified School District who disagreed with several policies being promulgated by the district. Mr. Shelton believed that the policies in question jeopardized the health and safety of children and also required members of the school community to subscribe to a political orthodoxy that violated their deeply held personal and religious beliefs.

1 15. GUSD, as an entity, has considerable decision-making authority and
2 independence from the state. Additionally, since the passage of AB 97, it is more
3 locally controlled and funded. Thus, GUSD is not an arm of the state.

4 16. Defendant Board of Education of the Glendale Unified School District
5 (the “School Board” or “Board”) is the duly created and authorized governing body
6 of the defendant GUSD.

7 17. Defendant Kathleen Cross (“Cross”) was, at all relevant times herein, a
8 member of the School Board .

9 18. Defendant Ingrid Gunnell (“Gunnell”) was, at all relevant times herein,
10 a member of the School Board.

11 19. Defendant Shant Sahakian (“Sahakian”) was, at all relevant times
12 herein, a member of the School Board.

13 20. Defendant Jennifer Freemon (“Freemon”) was, at all relevant times
14 herein, a member of the School Board.

15 21. Defendant Nayiri Nahabedian (“Nahabedian”) was, at all relevant times
16 herein, a member of the School Board.

17 22. The School Board’s individual members will be referred to herein
18 collectively as the “Individual Board Members.”

19 23. The School Board has final policymaking and decision-making
20 authority for rules, regulations, and decisions that govern school personnel, including
21 the actions challenged herein.

22 24. The School Board has participated in, acquiesced in, sanctioned, and
23 supported, and continues to participate in, acquiesce in, sanction, and support the
24 actions of the other Defendants in enforcing the policies and procedures governing
25 GUSD employees, specifically in the punitive measures taken against Mr. Shelton in
26 retaliation for the exercise of his First Amendment rights.

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1 25. The School Board refused to instruct GUSD personnel, including other
2 Defendants, to rescind the disciplinary measures taken against Mr. Shelton or
3 otherwise modify district policies to comply with constitutional mandates.

4 26. Defendant Vivian Ekchian (“Ekchian”) was, at all relevant times herein,
5 the superintendent of GUSD.

6 27. As superintendent, Defendant Ekchian was GUSD’s chief executive
7 officer whose powers included oversight and control of the district.

8 28. As superintendent, Defendant Ekchian approved the retaliatory and
9 unconstitutional actions taken against Mr. Shelton by approving he be placed on
10 administrative leave and has refused to instruct GUSD personnel, including other
11 Defendants, to rescind the disciplinary measures taken against Mr. Shelton or
12 otherwise modify district practices to comply with constitutional mandates.

13 29. As superintendent, Defendant Ekchian has a duty to ensure that
14 disciplinary policies and practices against personnel are applied in a consistent and
15 lawful manner. Defendant Ekchian has confirmed, sanctioned, and ratified the other
16 Defendants’ discriminatory, retaliatory, and unconstitutional discipline against Mr.
17 Shelton.

18 30. Defendant Darneika Watson (“Watson”) was, at all relevant times
19 herein, the Chief Human Resources and Operations Officer of GUSD. She currently
20 serves as superintendent of GUSD.

21 31. Defendant Watson possessed the authority and responsibility for
22 governing and regulating GUSD employees. Currently, she has all the authority and
23 responsibilities as superintendent that were previously held by Defendant Ekchian.

24 32. Defendant Watson exercised her authority to punish Mr. Shelton for
25 exercising his First Amendment rights by placing Mr. Shelton on administrative
26 leave.

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1 41. One of the basic foundational lessons in biology Mr. Shelton taught his
2 students is that the human species has two sexes: Male and female.

3 42. This is not only an accepted scientific fact but a deeply held personal
4 belief for Mr. Shelton.

5 43. Recently, however, this fact has come under attack from politically-
6 motivated activists, including the Defendants, who believe that there are more than
7 two sexes and claim that the idea of biological sex itself is a social construct.

8 44. Over the last several years these activist-driven ideas have started
9 creeping into official GUSD policy.

10 45. Some of these policies include, but are not limited to, keeping a secret
11 file on students who have decided to use pronouns that do not correspond to their
12 natal sex and a “preferred” cross-sex name which is different from their given one;
13 permitting natal males, who “identify” as the opposite sex, to use girls' locker rooms
14 and bathrooms at school; mandating that teachers and students use "preferred
15 pronouns" regardless of natal sex, even if this violates the users’ deeply held
16 religious or personal beliefs; and teaching elementary school children about various
17 sexual positions. More importantly, it is GUSD’s policy to conceal all of this
18 information from parents (these will be referred to herein as the “Sex-Change
19 Policies.”).

20 46. Mr. Shelton believes, based on scientific evidence, that children do not
21 have a fully developed capacity to understand the long-term consequences of their
22 decisions, especially when it comes to sex and identity.

23 47. Mr. Shelton believes that parents must be intimately involved in any
24 serious decisions involving their children, especially those with permanent physical
25 or psychological implications.

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1 48. Mr. Shelton believes that parents also have a fundamental right to
2 control the upbringing and education of their children.

3 49. Mr. Shelton wants to protect children from making potentially
4 irreversible and life-changing decisions that they may later regret. Mr. Shelton
5 believes that, because of the complex social, spiritual, and psychological issues
6 involved in changing one’s sex—especially when paired with chemical hormone and
7 surgical interventions—children should not be encouraged to undertake social or
8 medical transition due to their inability to assess the long-term consequences. This is
9 especially true when these decisions are actively concealed from parents or otherwise
10 made without parental involvement.

11 50. Mr. Shelton believes that educators have free speech rights that may be
12 impacted by educational policy relating to sex identity.

13 51. Mr. Shelton believes that every human being deserves to be treated with
14 dignity and respect. However, Mr. Shelton believes that referring to a child by a
15 pronoun that does not correspond to their natal sex does not constitute dignity or
16 respect; in fact, Mr. Shelton believes, this is harmful both to the child and the
17 speaker, because it is untrue.

18 52. As a gay man, Mr. Shelton also believes that GUSD’s Sex-Change
19 Policies cause harm to gay people because they are a form of gay conversion therapy
20 that attempt to convince individuals they are “born in the wrong body” rather than
21 simply attracted to the same sex.

22 53. On April 18, 2023 Mr. Shelton attended a GUSD Board of Education
23 meeting. Mr. Shelton attended as a private citizen and not in any representative
24 capacity as a GUSD employee.

25 54. During the public comment portion of the meeting, Mr. Shelton gave a
26 short speech in front of the Board, speaking in defense of scientific, biological fact
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1 and in opposition to GUSD’s newly-adopted, politically faddish Sex-Change
2 Policies.

3 55. Mr. Shelton expressed his sincere personal belief, based in scientific
4 fact, that these GUSD policies were causing mental, physical, and emotional harm to
5 the children who were being experimented on by adults pursuing a political agenda.

6 56. Mr. Shelton’s speech was given as a private citizen on a matter of public
7 concern.

8 57. Mr. Shelton’s speech did not violate any GUSD School Board rules.

9 58. Mr. Shelton’s participation in the School Board meeting did not
10 interfere with the performance of his duties as a Mark Keppel educator.

11 59. Mr. Shelton’s participation in the School Board meeting did not disrupt
12 any educational activities at Mark Keppel.

13 60. When Mr. Shelton arrived to teach his class the morning after the
14 meeting, Defendant Tonoli pulled Mr. Shelton out of his class and directed him to
15 Tonoli’s office, where a GUSD administrator sat waiting.

16 61. In Tonoli’s office, Mr. Shelton was handed a letter from Defendant
17 Watson. The administrator read the letter to Mr. Shelton but refused to provide any
18 additional information or answer any of his questions.

19 62. Defendant Watson’s letter stated that “the District” was placing Mr.
20 Shelton on paid administrative leave while the District investigated him for
21 “misconduct.” The letter also informed Mr. Shelton that he was not to report to
22 school or any other GUSD site until further notice from Defendants.

23 63. Defendant Watson’s letter also informed Mr. Shelton that he was to
24 have a further meeting with human resources regarding the disciplinary investigation
25 against him and that he had a right to have a union representative present at the
26 meeting.

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1 64. The letter also advised Mr. Shelton that this was a confidential
2 personnel matter and should not be discussed with anyone other than his
3 representative. It also advised him that all information from the investigation should
4 be kept confidential.

5 65. Despite Defendant Watson’s letter requiring that Mr. Shelton keep this
6 personnel matter confidential, Defendant Tonoli published an email to the entire
7 Mark Keppel community later that same day that publicly disclosed the investigation
8 and threat to Mr. Shelton’s job.

9 66. Defendant Tonoli’s email disparaged Mr. Shelton, accusing him of
10 “hate speech” at the school board meeting. Tonoli also stated that such “hate speech”
11 has no place in their community, that the district was investigating Mr. Shelton, that
12 he did not “represent the values of our Keppel and our Glendale Unified
13 community,” and that he was no longer on campus.

14 67. Defendant Tonoli’s email also insinuated that Mr. Shelton put the safety
15 of students and employees in jeopardy. Tonoli’s references to “hate speech” and
16 “safety,” combined with the “misconduct” investigation and the banishment from
17 district sites, put Mr. Shelton in serious fear of discipline and that his employment
18 was in danger, including how such investigation and discipline would reflect in his
19 permanent personnel file.

20 68. Defendant Tonoli’s email was a tacit admission that Defendants’
21 conduct against Mr. Shelton was in direct retaliation for the personal views he
22 expressed at the school board meeting.

23 69. Defendant Tonoli unlawfully revealed details regarding Mr. Shelton’s
24 private personnel matter despite admitting in the email that such matters are required
25 to be kept confidential.

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1 70. The School Board, including the Individual Board Members, as well as
2 Defendants Watson and Ekchian, conspired with Tonoli regarding the content and
3 publishing of the email as retaliation for Mr. Shelton exercising his First Amendment
4 rights. This is because public statements of a sensitive and controversial nature, like
5 the one made by Tonoli in her email, require approval by the District before they are
6 disseminated to the entire community. This necessarily includes the School Board
7 and its chief executive officer, Ekchian, as well as its head of Human Resources,
8 Watson.

9 71. As a result of Tonoli’s public dissemination of her false and
10 inflammatory email, what would normally be a private personnel matter became a
11 flashpoint in the community.

12 72. GUSD’s general counsel informed plaintiff’s counsel that, due to the
13 highly publicized nature of Mr. Shelton’s punishment, the decision to reinstate
14 him—while normally in the hands of Human Resources—had to be made by the
15 School Board.

16 73. In early June 2023, consistent with GUSD’s counsel’s representation,
17 the School Board reviewed the decisions to remove Mr. Shelton from his classroom
18 and place him on leave. After this review and discussion, and despite having the
19 power to reverse these decisions and reinstate him, the School Board sanctioned the
20 continuing actions against Mr. Shelton and refused to reinstate him or reverse his ban
21 from the school or any other District site.

22 74. The Defendants responsible for the decision to place Mr. Shelton on
23 leave were the School Board, and the Individual Board Members, who witnessed Mr.
24 Shelton’s speech and set in motion the chain of events leading to his administrative
25 leave the very next morning; Tonoli, who was Mr. Shelton’s direct supervisor and
26 had authority and responsibility for governing and regulating Mark Keppel teachers;

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1 Watson, who was head of Human Resources and authored the letter placing Mr.
2 Shelton on leave and banning him from District sites; and Ekchian, who was the
3 District’s chief executive officer and responsible for taking disciplinary actions
4 against teachers on the District’s behalf.

5 75. This decision, as outlined in Watson’s letter from “the District,” barred
6 Mr. Shelton from school-related activities and events and kept Mr. Shelton from
7 returning to his classroom for the rest of the school year. Because Mr. Shelton was
8 barred from District sites until “further notice,” the decision also barred Mr. Shelton
9 from attending his students’ fifth-grade graduation ceremony—something that he
10 deeply cherished every year to commemorate the achievement of his students and to
11 be able to celebrate with them and their families before they moved on to middle
12 school.

13 76. For Mr. Shelton, this was a devastating loss.

14 77. By placing Mr. Shelton on leave, Defendants attacked his credibility as
15 an educator and sullied his personal and professional reputation.

16 78. Mr. Shelton was also publicly humiliated by being placed on
17 administrative leave for “misconduct” by Watson and by Tonoli’s email, which
18 disseminated this information to the community along with the other false and
19 defamatory accusations.

20 79. As a consequence of the administrative leave, Mr. Shelton lost
21 opportunities to develop his skills as an educator and to mentor his students because
22 of the forced time away from his classroom.

23 80. Mr. Shelton’s personnel file now contains the suspension letter, and
24 other derogatory information, as a result of Defendants’ retaliatory conduct. This is
25 harming his prospects with prospective employers and is currently preventing him
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1 from exploring opportunities and further developing his teaching skills in all other
2 educational environments and jurisdictions.

3 81. Punishing Mr. Shelton for communicating his views on GUSD’s Sex-
4 Change Policies does not serve any legitimate or compelling state interest and is not
5 narrowly tailored to serve any such interests.

6 82. Defendants, including GUSD, the School Board and the Individual
7 Board Members, Tonoli, Watson, and Ekchian, through their retaliatory actions, also
8 sent a message to all GUSD employees that speaking on matters of public concern,
9 that conflict with District heterodoxy, will be met with punishment, including
10 suspension and termination.

11 83. Defendants’ actions were taken with the intent to chill Mr. Shelton’s
12 speech, as well as that of other employees who disagree with GUSD’s radical, child-
13 harming policies. Defendants’ actions were reasonably likely to deter a person in Mr.
14 Shelton’s position from speaking out against these policies.

15 84. Notably, GUSD employees who have spoken publicly in favor of these
16 Sex-Change Policies have never been punished or disciplined in any way.

17 85. For example, a GUSD teacher who showed sexually inappropriate
18 content to her third-grade class—in furtherance of Defendants’ policies—was
19 publicly supported by the School Board, who defended her actions. Despite the fact
20 that there was a public outcry by parents in the district against young children being
21 shown such sexually inappropriate content.

22 86. As a result of Defendants’ actions, other GUSD teachers, who supported
23 the Sex-Change Policies, engaged in a public campaign of harassment and personal
24 attacks directed against Mr. Shelton because of his stated opposition. Several of
25 these teachers spread rumors, in person and on social media, that Mr. Shelton was a
26 bigot and a Nazi. One teacher even made a post on social media that implicated Mr.

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1 Shelton of “genocide”—a common trope used against individuals who want to
2 protect children from the types of policies enacted by GUSD.

3 87. Unlike Mr. Shelton’s speech—which focused on ideas and policies, not
4 individuals—the teachers who attacked Mr. Shelton named him specifically in their
5 campaign. This virulent harassment campaign, in addition to Defendant Tonoli’s
6 public email, caused Mr. Shelton to be bombarded with homophobic slurs and to
7 receive death threats.

8 88. However, despite the personal nature of the attacks by these teachers,
9 which were reported to GUSD by Mr. Shelton, Defendants School Board and
10 Watson—who were informed about this harassment—took no action against them.

11 89. GUSD justified its inaction regarding the offending teachers by
12 claiming that these attacks took place outside of school hours and, therefore, did not
13 violate any policies or rules.

14 90. Conversely, Defendants specifically retaliated against Mr. Shelton for
15 his speech that occurred outside school hours.

16 91. This shows that GUSD selectively punished Mr. Shelton, who opposed
17 its Sex-Change Policies, for “misconduct” while defending or ignoring the actual
18 misconduct of teachers who supported its policies.

19 92. The School Board also retaliated against non-employee individuals and
20 families who opposed the Sex-Change Policies.

21 93. The School Board explicitly changed the rules of its meetings to prevent
22 individuals from being able to voice their opposition to its policies. This was done in
23 direct retaliation for these individuals’ previous efforts to convince the Board to
24 change the Sex-Change Policies. For instance, to prevent people from speaking out
25 against their unpopular policies, the School Board only allowed one person to speak
26 on a topic where, before, several people spoke out per meeting against the Sex-

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1 Change Policies. The School Board also shortened the speaking time from five to
2 three minutes. Defendants also banned speakers from bringing signs, including a
3 single sheet of paper, because they were popular with people who spoke out against
4 the Sex-Change Policies.

5 94. Further, a special needs GUSD student and her mother attended a
6 School Board meeting and voiced their opposition to these policies. The student’s
7 teacher and principal retaliated against the student by abusing and harassing her and
8 calling her a “bigot” as well as targeting her disproportionately for discipline. The
9 student was also barred by GUSD from attending class. Despite having the power to
10 do so, the School Board, Ekchian, and Watson took no action against the teacher or
11 principal because she was aligned with their ideological beliefs.

12 95. As demonstrated, above, Defendants’ retaliatory conduct against Mr.
13 Shelton conformed to an official policy, custom, or practice of silencing, censoring,
14 and punishing those who opposed its Sex-Change Policies.

15 96. Following these retaliatory actions by Defendants, Mr. Shelton retired at
16 the end of the school year.

17 **CAUSES OF ACTION**

18 **COUNT 1**

19 **FIRST AMENDMENT RIGHT OF FREE SPEECH AND PETITION (42**
20 **U.S.C. 1983) – Against all Defendants**
21 **(Viewpoint Discrimination)**

22 97. Plaintiff repeats and realleges each of the foregoing allegations in this
23 Complaint as if fully set forth herein.

24 98. Mr. Shelton’s speech regarding political and social issues, including his
25 speech about Glendale School District policies, constitute speech and petition on
26 matters of public concern protected by the First Amendment from viewpoint
27 discrimination.
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- A. General and compensatory damages for Plaintiff for violations of his state and federal constitutional and statutory rights, and emotional distress, all according to proof.
- B. Nominal damages, according to proof.
- C. Punitive damages, according to proof.
- D. A declaration that Defendants, through the actions, omissions, policies, practices, and/or procedures complained of, violated 42 U.S.C. § 1983 and California Constitution, Article I, § 2.
- E. Preliminary and permanent injunctive relief:
 - 1. Preliminary and permanent injunctive relief requiring Defendants, their successors in office, agents, employees, and assigns, and all persons acting in concert with them, to (1) rescind any disciplinary action taken against Plaintiff, (2) remove any reference of discipline and any other actions taken against Plaintiff as a result of his protected speech from his personnel file, and (3) refrain from any future retaliation.
- F. Attorneys' fees, costs, interest, and expenses pursuant to 42 U.S.C. §1988, Cal. Code Civ. Proc. § 1021.5, and other relevant statutes.
- G. And such other and further relief as the Court may deem proper.

Dated: July 26, 2024

THE PIVTORAK LAW FIRM

By: /s/ David Pivtorak
David Pivtorak
Attorney for Plaintiff,
RAY SHELTON