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5

6 Attorneys for Defendants GLENDALE UNIFIED
SCHOOL DISTRICT (on behalf of itself and its BOARD
OF EDUCATION), VIVIAN EKCHIAN, Ed.D, and
7 KRISTINE TONOLI, and Defendants DARNEIKA
WATSON, Ph.D., KATHLEEN CROSS, INGRID
8 GUNNELL, SHANT SAHAKIAN, JENNIFER
FREEMON, and NAYIRI NAHABEDIAN, in their
9 individual and official capacities as pleaded

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

12
13 RAY SHELTON,

14 Plaintiff,

15 vs.

16 GLENDALE UNIFIED SCHOOL
DISTRICT, et al.,

17 Defendants.

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

[Hon. Consuelo B. Marshall]

**ANSWER OF DEFENDANT
VIVIAN EKCHIAN, Ed.D. TO
SECOND AMENDED COMPLAINT**

18
19 Defendant Vivian Ekchian, Ed.D. (Defendant), for herself and no other
20 defendants, hereby responds to the Second Amended Complaint (SAC) (Dkt. No.
21 26) filed by Plaintiff Ray Shelton (Plaintiff), and admits, denies, and alleges as
22 follows:

23 1. Answering Paragraph 1 of the SAC, Defendant admits that this Court
24 has subject matter jurisdiction over the within matter pursuant to 28 U.S.C. §§ 1331
25 and 1343 and 42 U.S.C. § 1983. Defendant denies, generally and specifically, each
26 and every remaining allegation in said Paragraph 1.

27 2. Answering Paragraph 2 of the SAC, Defendant admits that venue is
28 proper in the United States District Court for the Central District of California under

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1 28 U.S.C. § 1391(b). Defendant denies, generally and specifically, each and every
2 remaining allegation in said Paragraph 2.

3 3. Paragraph 3 of the SAC states only legal conclusions; accordingly, no
4 response is required from Defendant. To the extent any such response is deemed
5 required, Defendant lacks knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in said Paragraph 3 and, on that basis, denies
7 each and every allegation contained in said Paragraph 3.

8 4. Paragraph 4 of the SAC states only legal conclusions; accordingly, no
9 response is required from Defendant. To the extent any such response is deemed
10 required, Defendant lacks knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in said Paragraph 4 and, on that basis, denies
12 each and every allegation contained in said Paragraph 4.

13 5. Paragraph 5 of the SAC states only legal conclusions; accordingly, no
14 response is required from Defendant. To the extent any such response is deemed
15 required, Defendant lacks knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in said Paragraph 5 and, on that basis, denies
17 each and every allegation contained in said Paragraph 5.

18 6. Defendant denies, generally and specifically, each and every allegation
19 in Paragraph 6 of the SAC.

20 7. Answering Paragraph 7 of the SAC, Defendant admits that Plaintiff
21 was a fifth-grade teacher employed by the Glendale Unified School District
22 (GUSD). Defendant lacks knowledge or information sufficient to form a belief as to
23 the truth of the remaining allegations contained in said Paragraph 7 and, on that
24 basis, denies each and every remaining allegation contained in said Paragraph 7.

25 8. Answering Paragraph 8 of the SAC, Defendant admits, on information
26 and belief, that Plaintiff attended a GUSD Board of Education (School Board)
27 meeting on April 18, 2023. Defendant lacks knowledge or information sufficient to
28 form a belief as to the truth of the remaining allegations contained in said Paragraph

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1 8 and, on that basis, denies each and every remaining allegation contained in said
2 Paragraph 8.

3 9. Answering Paragraph 9 of the SAC, Defendant admits that on April 19,
4 2023, GUSD directed Plaintiff to leave his classroom and placed Plaintiff on paid
5 administrative leave, and the principal of Plaintiff's school disseminated an email to
6 families of the school's students. Defendant denies, generally and specifically, each
7 and every remaining allegation contained in said Paragraph 9.

8 10. Answering Paragraph 10 of the SAC, Defendant lacks knowledge or
9 information sufficient to form a belief as to the truth of the allegation contained in
10 said Paragraph 10 that Plaintiff looked forward to watching his students graduate
11 every year, and, on that basis, denies said allegation. Defendant denies, generally
12 and specifically, each and every remaining allegation contained in said Paragraph
13 10.

14 11. Defendant denies, generally and specifically, each and every allegation
15 in Paragraph 11 of the SAC.

16 12. Defendant lacks knowledge or information sufficient to form a belief as
17 to the truth of the allegations contained in Paragraph 12 of the SAC and, on that
18 basis, denies each and every allegation contained in said Paragraph 12.

19 13. Defendant admits, on information and belief, the allegations in
20 Paragraph 13 of the SAC.

21 14. Defendant admits, on information and belief, the allegations in
22 Paragraph 14 of the SAC.

23 15. Paragraph 15 of the SAC states only legal conclusions; accordingly, no
24 response is required from Defendant. To the extent any such response is deemed
25 required, Defendant lacks knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in said Paragraph 15 and, on that basis, denies
27 each and every allegation contained in said Paragraph 15.

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1 16. Defendant admits, on information and belief, the allegations in
2 Paragraph 16 of the SAC.

3 17. Defendant admits, on information and belief, the allegations in
4 Paragraph 17 of the SAC.

5 18. Defendant admits, on information and belief, the allegations in
6 Paragraph 18 of the SAC.

7 19. Defendant admits, on information and belief, the allegations in
8 Paragraph 19 of the SAC.

9 20. Defendant admits, on information and belief, the allegations in
10 Paragraph 20 of the SAC.

11 21. Defendant admits, on information and belief, the allegations in
12 Paragraph 21 of the SAC.

13 22. Defendant admits, on information and belief, the allegations in
14 Paragraph 22 of the SAC.

15 23. Answering Paragraph 23 of the SAC, Defendant admits, on information
16 and belief, that the School Board has final authority to formulate and adopt GUSD
17 policies, including regulations that govern GUSD personnel, that the Board has the
18 authority to approve personnel decisions such as selection, release, termination,
19 unpaid certificated suspensions, assignment, and transfer of employees, that the
20 Board may authorize the Superintendent to employ personnel without Board
21 approval, that the Board refers all complaints, criticisms, and suggestions called to
22 its attention to the Superintendent for study and recommendations, and that the
23 Board does not participate in making decisions to investigate teachers or place them
24 on paid administrative leave pending such investigations. Defendant denies,
25 generally and specifically, each and every remaining allegation contained in said
26 Paragraph 23.

27 24. Answering Paragraph 24 of the SAC, Defendant admits, on information
28 and belief, that the School Board has final authority to formulate and adopt GUSD

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1 policies, including regulations that govern GUSD personnel, that the Board has the
2 authority to approve personnel decisions such as selection, release, termination,
3 unpaid certificated suspensions, assignment, and transfer of employees, that the
4 Board may authorize the Superintendent to employ personnel without Board
5 approval, that the Board refers all complaints, criticisms, and suggestions called to
6 its attention to the Superintendent for study and recommendations, and that the
7 Board does not participate in making decisions to investigate teachers or place them
8 on paid administrative leave pending such investigations. Defendant denies,
9 generally and specifically, each and every remaining allegation contained in said
10 Paragraph 24.

11 25. Answering Paragraph 25 of the SAC, Defendant admits, on information
12 and belief, that the School Board did not instruct GUSD personnel to rescind the
13 decision placing Plaintiff on paid administrative leave, and that Plaintiff's retirement
14 effective June 9, 2023, eliminated the need to determine whether Plaintiff should be
15 dismissed or otherwise disciplined. Defendant denies, generally and specifically,
16 each and every remaining allegation contained in said Paragraph 25.

17 26. Answering Paragraph 26 of the SAC, Defendant admits that she was
18 Superintendent of GUSD from July 1, 2019, until she retired effective June 30,
19 2023. Defendant denies, generally and specifically, each and every remaining
20 allegation contained in said Paragraph 26.

21 27. Answering Paragraph 27 of the SAC, Defendant admits that as
22 Superintendent, she was GUSD's Chief Executive Officer, and as such, she had the
23 primary responsibility for execution of policies that the School Board formulates
24 and adopts. Defendant admits that as Superintendent, she had delegated powers and
25 duties necessary for efficient management and administration of GUSD to the full
26 extent permitted by law. Defendant denies, generally and specifically, each and
27 every remaining allegation contained in said Paragraph 27.

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1 28. Answering Paragraph 28 of the SAC, Defendant admits that as
2 Superintendent, she was notified of at least one complaint that at a School Board
3 meeting on April 18, 2023, Plaintiff displayed a swastika to a teacher who happened
4 to be Jewish, that she determined such action violated GUSD’s nondiscrimination
5 policy (BP/AR 4030) and the Code of Ethics (BP/AR 4119.21), and that based
6 solely on said complaint and determination, she decided to ask GUSD’s Human
7 Resources Department to investigate the complaint and to place Plaintiff on paid
8 administrative leave pending the investigation. Defendant admits that she did not
9 instruct any GUSD personnel to cease the investigation or to rescind Plaintiff’s paid
10 administrative leave before the investigation was completed. Defendant denies,
11 generally and specifically, each and every remaining allegation contained in said
12 Paragraph 28.

13 29. Answering Paragraph 29 of the SAC, Defendant admits that as
14 Superintendent, she had the primary responsibility of organizing, reorganizing, and
15 arranging the administrative and supervisory staff, including but not limited to,
16 instruction, human resources, and business affairs which, in her judgment, would
17 best serve GUSD, that she had such responsibility in all personnel matters, and that
18 major disciplinary actions (such as release from service or certificated suspensions)
19 require School Board approval. Defendant admits that as Superintendent, she was
20 responsible for the investigation process and discipline, that she delegated such
21 responsibility to the Chief Human Resources Officer and others in the department,
22 and that she had a duty to ensure that all GUSD policies and practices were applied
23 consistently and lawfully, including those pertaining to discipline. Defendant denies,
24 generally and specifically, each and every remaining allegation contained in said
25 Paragraph 29.

26 30. Answering Paragraph 30 of the SAC, Defendant admits, on information
27 and belief, that Darneika Watson, Ph.D. (Dr. Watson) was the Chief Human
28 Resources and Operations Officer of GUSD from April 21, 2020 until June 30,

1 2023, that she was Interim Superintendent of GUSD from July 1, 2023 until October
2 9, 2023, and that she has been Superintendent of GUSD since October 10, 2023.
3 Defendant denies, generally and specifically, each and every remaining allegation
4 contained in said Paragraph 30.

5 31. Answering Paragraph 31 of the SAC, Defendant admits that as Chief
6 Human Resources and Operations Officer, Dr. Watson had authorities and
7 responsibilities delegated to her by the Superintendent, including those pertaining to
8 personnel matters, such as the investigation process and discipline. Defendant
9 admits, on information and belief, that Dr. Watson has the same authority and
10 responsibilities as Superintendent as those previously held by Defendant. Defendant
11 denies, generally and specifically, each and every remaining allegation contained in
12 said Paragraph 31.

13 32. Answering Paragraph 32 of the SAC, Defendant admits, on information
14 and belief, that as Chief Human Resources and Operations Officer, Dr. Watson was
15 notified of at least one complaint that at a School Board meeting on April 18, 2023,
16 Plaintiff displayed a swastika to a teacher who happened to be Jewish. Defendant
17 admits that she determined such action violated GUSD's nondiscrimination policy
18 (BP/AR 4030) and the Code of Ethics (BP/AR 4119.21), and that based solely on
19 said complaint and Defendant's determination, Dr. Watson agreed with Defendant's
20 request to investigate the complaint and to place Plaintiff on paid administrative
21 leave pending the investigation. Defendant denies, generally and specifically, each
22 and every remaining allegation contained in said Paragraph 32.

23 33. Defendant admits, on information and belief, the allegations in
24 Paragraph 33 of the SAC.

25 34. Answering Paragraph 34 of the SAC, Defendant admits, on information
26 and belief, that as Principal of Mark Keppel Visual and Performing Arts Magnet
27 School (Mark Keppel or Keppel), Kristine Tonoli possessed the authority to assign,
28 train, supervise, and evaluate all certificated and classified staff at Mark Keppel.

1 Defendant denies, generally and specifically, each and every remaining allegation
2 contained in said Paragraph 34.

3 35. Defendant denies, generally and specifically, each and every allegation
4 in Paragraph 35 of the SAC.

5 36. Paragraph 36 of the SAC states only legal conclusions; accordingly, no
6 response is required from Defendant. To the extent any such response is deemed
7 required, Defendant denies, generally and specifically, each and every allegation
8 contained in said Paragraph 36.

9 37. Answering Paragraph 37 of the SAC, Defendant admits, on information
10 and belief, that Plaintiff was a fifth-grade teacher at Mark Keppel, which is part of
11 GUSD, for about 25 years. Defendant lacks knowledge or information sufficient to
12 form a belief as to the truth of the remaining allegations contained in said Paragraph
13 37 and, on that basis, denies each and every remaining allegation contained in said
14 Paragraph 37.

15 38. Defendant lacks knowledge or information sufficient to form a belief as
16 to the truth of the allegations contained in Paragraph 38 of the SAC and, on that
17 basis, denies each and every allegation contained in said Paragraph 38.

18 39. Defendant lacks knowledge or information sufficient to form a belief as
19 to the truth of the allegations contained in Paragraph 39 of the SAC and, on that
20 basis, denies each and every allegation contained in said Paragraph 39.

21 40. Defendant lacks knowledge or information sufficient to form a belief as
22 to the truth of the allegations contained in Paragraph 40 of the SAC and, on that
23 basis, denies each and every allegation contained in said Paragraph 40.

24 41. Defendant lacks knowledge or information sufficient to form a belief as
25 to the truth of the allegations contained in Paragraph 41 of the SAC and, on that
26 basis, denies each and every allegation contained in said Paragraph 41.

27 42. Defendant lacks knowledge or information sufficient to form a belief as
28 to the truth of the allegations contained in Paragraph 42 of the SAC and, on that

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1 basis, denies each and every allegation contained in said Paragraph 42.

2 43. Answering Paragraph 43 of the SAC, Defendant admits, on information
3 and belief as to persons other than herself, that GUSD and its personnel follow
4 California state laws which require that all students be permitted to participate in
5 school programs, activities, and facilities in accordance with their gender identity,
6 affirm every individual on campus the right to be addressed by their chosen names
7 and pronouns, and are intended to ensure that transgender students are protected and
8 have the same opportunities to participate and succeed as all other students. The
9 remaining allegations in said Paragraph 43 consist of arguments to which no
10 response is required from Defendant. To the extent any such response is deemed
11 required, Defendant lacks knowledge or information sufficient to form a belief as to
12 the truth of the remaining allegations contained in said Paragraph 43 and, on that
13 basis, denies each and every remaining allegation contained in said Paragraph 43.

14 44. Answering Paragraph 44 of the SAC, Defendant admits, on information
15 and belief, that GUSD's official policies are consistent with California state laws
16 which require that all students be permitted to participate in school programs,
17 activities, and facilities in accordance with their gender identity, affirm every
18 individual on campus the right to be addressed by their chosen names and pronouns,
19 and are intended to ensure that transgender students are protected and have the same
20 opportunities to participate and succeed as all other students. The remaining
21 allegations in said Paragraph 44 consist of arguments to which no response is
22 required from Defendant. To the extent any such response is deemed required,
23 Defendant lacks knowledge or information sufficient to form a belief as to the truth
24 of the remaining allegations contained in said Paragraph 44 and, on that basis,
25 denies each and every remaining allegation contained in said Paragraph 44.

26 45. Answering Paragraph 45 of the SAC, Defendant admits, on information
27 and belief, that GUSD's official policies are consistent with California state laws
28 which require that all students be permitted to participate in school programs,

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1 activities, and facilities (including bathrooms and locker rooms) in accordance with
2 their gender identity, affirm every individual on campus the right to be addressed by
3 their chosen names and pronouns and to keep their transgender status private if
4 desired, ensure that any disclosures of a student’s transgender status are made in a
5 way that reduces or eliminates the risk of re-disclosure, protect the transgender
6 student’s safety, protect against harassment or discrimination, and are intended to
7 ensure that transgender students are protected and have the same opportunities to
8 participate and succeed as all other students. Defendant admits, on information and
9 belief, that GUSD, consistent with federal and California state law, keeps all student
10 files and records private, subject to disclosure only under specified circumstances,
11 and that additional privacy measures are taken when a family requests a change to
12 the gender listed on a student’s original cumulative file, including but not limited to
13 creating an updated cumulative file and securely storing the original file with
14 restricted access. Defendant denies, generally and specifically, each and every
15 remaining allegation contained in said Paragraph 45.

16 46. Defendant lacks knowledge or information sufficient to form a belief as
17 to the truth of the allegations contained in Paragraph 46 of the SAC and, on that
18 basis, denies each and every allegation contained in said Paragraph 46.

19 47. Defendant lacks knowledge or information sufficient to form a belief as
20 to the truth of the allegations contained in Paragraph 47 of the SAC and, on that
21 basis, denies each and every allegation contained in said Paragraph 47.

22 48. Defendant lacks knowledge or information sufficient to form a belief as
23 to the truth of the allegations contained in Paragraph 48 of the SAC and, on that
24 basis, denies each and every allegation contained in said Paragraph 48.

25 49. Defendant lacks knowledge or information sufficient to form a belief as
26 to the truth of the allegations contained in Paragraph 49 of the SAC and, on that
27 basis, denies each and every allegation contained in said Paragraph 49.

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1 50. Defendant lacks knowledge or information sufficient to form a belief as
2 to the truth of the allegations contained in Paragraph 50 of the SAC and, on that
3 basis, denies each and every allegation contained in said Paragraph 50.

4 51. Defendant lacks knowledge or information sufficient to form a belief as
5 to the truth of the allegations contained in Paragraph 51 of the SAC and, on that
6 basis, denies each and every allegation contained in said Paragraph 51.

7 52. Defendant lacks knowledge or information sufficient to form a belief as
8 to the truth of the allegations contained in Paragraph 52 of the SAC and, on that
9 basis, denies each and every allegation contained in said Paragraph 52.

10 53. Answering Paragraph 53 of the SAC, Defendant admits, on information
11 and belief, that Plaintiff attended a GUSD School Board meeting on April 18, 2023.
12 Defendant lacks knowledge or information sufficient to form a belief as to the truth
13 of the remaining allegations contained in said Paragraph 53 and, on that basis,
14 denies each and every remaining allegation contained in said Paragraph 53.

15 54. Answering Paragraph 54 of the SAC, Defendant admits, on information
16 and belief, that Plaintiff gave a short speech in front of the GUSD School Board at
17 its meeting on April 18, 2023, in which he stated as follows: “Two plus two equals
18 four. The world is not flat. Boys have penises. Girls have vaginas. Gender is binary
19 and cannot be changed. Biology is not bigotry. Heterosexuality is not hate. Gender
20 confusion and gender delusion are deep psychological disorders. No caring
21 profession or loving parent would ever support the chemical poisoning or surgical
22 mutilation of a child’s genitalia. Transgender ideology is anti-gay. It is anti-woman
23 and is anti-human. It wants to take away women’s sports, women’s rights, women’s
24 achievements. It is misogyny writ large. And I can say this also as a gay man, the
25 gay people d-- ... [*speech ends*].” Defendant denies, generally and specifically, each
26 and every remaining allegation contained in said Paragraph 54.

27 55. Answering Paragraph 55 of the SAC, Defendant admits, on information
28 and belief, that Plaintiff gave a short speech in front of the GUSD School Board at

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1 its meeting on April 18, 2023, in which he stated as follows: “Two plus two equals
2 four. The world is not flat. Boys have penises. Girls have vaginas. Gender is binary
3 and cannot be changed. Biology is not bigotry. Heterosexuality is not hate. Gender
4 confusion and gender delusion are deep psychological disorders. No caring
5 profession or loving parent would ever support the chemical poisoning or surgical
6 mutilation of a child’s genitalia. Transgender ideology is anti-gay. It is anti-woman
7 and is anti-human. It wants to take away women’s sports, women’s rights, women’s
8 achievements. It is misogyny writ large. And I can say this also as a gay man, the
9 gay people d-- ... [*speech ends*].” Defendant denies, generally and specifically, each
10 and every remaining allegation contained in said Paragraph 55.

11 56. Paragraph 56 of the SAC states only legal conclusions; accordingly, no
12 response is required from Defendant. To the extent any such response is deemed
13 required, Defendant lacks knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in said Paragraph 56 and, on that basis, denies
15 each and every allegation contained in said Paragraph 56.

16 57. Defendant lacks knowledge or information sufficient to form a belief as
17 to the truth of the allegations contained in Paragraph 57 of the SAC and, on that
18 basis, denies each and every allegation contained in said Paragraph 57.

19 58. Defendant denies, generally and specifically, each and every allegation
20 in Paragraph 58 of the SAC.

21 59. Defendant denies, generally and specifically, each and every allegation
22 in Paragraph 59 of the SAC.

23 60. Answering Paragraph 60 of the SAC, Defendant admits that on April
24 19, 2023, Principal Tonoli directed Plaintiff to leave his classroom and to meet with
25 her and with a GUSD administrator in Ms. Tonoli’s office. Defendant lacks
26 knowledge or information sufficient to form a belief as to the truth of the remaining
27 allegations contained in said Paragraph 60 and, on that basis, denies each and every
28 remaining allegation contained in said Paragraph 60.

1 61. Answering Paragraph 61 of the SAC, Defendant admits that on April
2 19, 2023, Plaintiff was given a letter signed and authorized by Dr. Watson while in
3 Principal Tonoli’s office. Defendant lacks knowledge or information sufficient to
4 form a belief as to the truth of the remaining allegations contained in said Paragraph
5 61 and, on that basis, denies each and every remaining allegation contained in said
6 Paragraph 61.

7 62. Answering Paragraph 62 of the SAC, Defendant admits the letter
8 signed and authorized by Dr. Watson stated, in part: “This letter serves to confirm
9 the District’s decision to place you on Administrative Leave with Pay effective
10 April 19, 2023. The purpose of this leave is to allow the District time to conduct its
11 investigation into allegations of misconduct made by another teacher in the Glendale
12 Unified School District. [¶] This Administrative Leave will remain in effect pending
13 the completion of the District’s investigation and the District’s notice to you. You
14 are not to report to school or any other District site during the Administrative Leave
15 except to Payroll or Human Resources until further notice.” Defendant denies,
16 generally and specifically, each and every remaining allegation contained in said
17 Paragraph 62.

18 63. Answering Paragraph 63 of the SAC, Defendant admits the letter
19 signed and authorized by Dr. Watson stated, in part: “You are tentatively scheduled
20 to meet with Human Resources Representatives on Tuesday, April 25, 2023, from
21 10:30 AM to 11:00 AM, when you will be provided with more information on the
22 allegations. You have the right to have a union representative at this meeting, held in
23 the Human Resources Office.” Defendant denies, generally and specifically, each
24 and every remaining allegation contained in said Paragraph 63.

25 64. Answering Paragraph 64 of the SAC, Defendant admits the letter
26 signed and authorized by Dr. Watson stated, in part: “Because this is a confidential
27 personnel matter, we would recommend that you not discuss this investigation or
28 any of the information related to it with your co-workers or others, other than your

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1 representative. Further, all information from this investigation should be kept
2 confidential.” Defendant denies, generally and specifically, each and every
3 remaining allegation contained in said Paragraph 64.

4 65. Answering Paragraph 65 of the SAC, Defendant admits that on April
5 19, 2023, Principal Tonoli disseminated an email to families of the school’s students
6 that never identified Plaintiff by name and stated, in part: “We have received official
7 complaints about the actions of one of our Keppel teachers at the Glendale Unified
8 Board of Education meeting last night. Our district has processes in place to
9 investigate and address these complaints and is following up immediately. As this is
10 a personnel matter, I am unable to share additional information, but I can confirm
11 that the teacher is not currently on campus.” Defendant denies, generally and
12 specifically, each and every remaining allegation contained in said Paragraph 65.

13 66. Answering Paragraph 66 of the SAC, Defendant admits that on April
14 19, 2023, Principal Tonoli disseminated an email to families of the school’s students
15 that never identified Plaintiff by name and stated, in part: “We have received official
16 complaints about the actions of one of our Keppel teachers at the Glendale Unified
17 Board of Education meeting last night. Our district has processes in place to
18 investigate and address these complaints and is following up immediately. As this is
19 a personnel matter, I am unable to share additional information, but I can confirm
20 that the teacher is not currently on campus. [¶] I am deeply saddened by our
21 employee’s actions and assure you they do not represent the values of our Keppel
22 and our Glendale Unified community. ... [¶] Hate speech and hate symbols have no
23 place in our community.” Defendant denies, generally and specifically, each and
24 every remaining allegation contained in said Paragraph 66.

25 67. Answering Paragraph 67 of the SAC, Defendant admits that on April
26 19, 2023, Principal Tonoli disseminated an email to families of the school’s students
27 that never identified Plaintiff by name and stated, in part: “Together, we have
28 created a wonderful school environment that supports our students and it is my

1 commitment that we continue to do so. Student and employee safety is and always
2 will be our top priority. We will continue to foster a positive culture that emphasizes
3 the safety and wellbeing of all of our students and staff.” Defendant denies,
4 generally and specifically, each and every remaining allegation contained in said
5 Paragraph 67.

6 68. Defendant denies, generally and specifically, each and every allegation
7 in Paragraph 68 of the SAC.

8 69. Defendant denies, generally and specifically, each and every allegation
9 in Paragraph 69 of the SAC.

10 70. Answering Paragraph 70 of the SAC, Defendant admits, on information
11 and belief, that GUSD staff routinely assist school sites with functions such as
12 public statements and other messaging to the school community. Defendant denies,
13 generally and specifically, each and every remaining allegation contained in said
14 Paragraph 70.

15 71. Defendant denies, generally and specifically, each and every allegation
16 in Paragraph 71 of the SAC.

17 72. Answering Paragraph 72 of the SAC, Defendant admits, on information
18 and belief, that GUSD’s then-general counsel informed Plaintiff’s counsel on or
19 about June 6, 2023, that Plaintiff was not dismissed from service, that any such
20 dismissal would require School Board approval, that Human Resources normally
21 handled placements on administrative leave, that given the public nature of the
22 matter, the Board would have had to make any decision to rescind Plaintiff’s
23 administrative leave, that the Board meeting scheduled to occur on the day of this
24 discussion was derailed because of a riot in the parking lot, and that Plaintiff’s
25 previously-scheduled retirement date of June 9, 2023, eliminated any need to issue
26 discipline of any kind, including dismissal. Defendant denies, generally and
27 specifically, each and every remaining allegation contained in said Paragraph 72.

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1 73. Defendant denies, generally and specifically, each and every allegation
2 in Paragraph 73 of the SAC.

3 74. Answering Paragraph 74 of the SAC, Defendant admits that as
4 Superintendent, she was notified of at least one complaint that at a School Board
5 meeting on April 18, 2023, Plaintiff displayed a swastika to a teacher who happened
6 to be Jewish, that she determined such action violated GUSD’s nondiscrimination
7 policy (BP/AR 4030) and the Code of Ethics (BP/AR 4119.21), that based solely on
8 said complaint and determination, she decided to ask GUSD’s Human Resources
9 Department to investigate the complaint and to place Plaintiff on paid administrative
10 leave pending the investigation, and that Dr. Watson agreed with Defendant’s
11 request. Defendant denies, generally and specifically, each and every remaining
12 allegation contained in said Paragraph 74.

13 75. Answering Paragraph 75 of the SAC, Defendant admits the letter
14 signed and authorized by Dr. Watson stated, in part: “This letter serves to confirm
15 the District’s decision to place you on Administrative Leave with Pay effective
16 April 19, 2023.... [¶] This Administrative Leave will remain in effect pending the
17 completion of the District’s investigation and the District’s notice to you. You are
18 not to report to school or any other District site during the Administrative Leave
19 except to Payroll or Human Resources until further notice.” Defendant lacks
20 knowledge or information sufficient to form a belief as to the truth of the allegation
21 contained in said Paragraph 75 that Plaintiff deeply cherished attending his students’
22 fifth-grade graduation ceremony every year to commemorate the achievement of his
23 students and to be able to celebrate with them and their families before they moved
24 on to middle school, and, on that basis, denies said allegation. Defendant denies,
25 generally and specifically, each and every remaining allegation contained in said
26 Paragraph 75.

27 76. Defendant lacks knowledge or information sufficient to form a belief as
28 to the truth of the allegations contained in Paragraph 76 of the SAC and, on that

1 basis, denies each and every allegation contained in said Paragraph 76.

2 77. Defendant denies, generally and specifically, each and every allegation
3 in Paragraph 77 of the SAC.

4 78. Defendant denies, generally and specifically, each and every allegation
5 in Paragraph 78 of the SAC.

6 79. Defendant lacks knowledge or information sufficient to form a belief as
7 to the truth of the allegations contained in Paragraph 79 of the SAC and, on that
8 basis, denies each and every allegation contained in said Paragraph 79.

9 80. Answering Paragraph 80 of the SAC, Defendant specifically denies the
10 allegation in said Paragraph 80 that Defendants engaged in retaliatory conduct.
11 Defendant lacks knowledge or information sufficient to form a belief as to the truth
12 of the remaining allegations contained in said Paragraph 80 and, on that basis,
13 denies each and every remaining allegation contained in said Paragraph 80.

14 81. Answering Paragraph 81 of the SAC, Defendant specifically denies the
15 allegation in said Paragraph 81 that Defendants punished Plaintiff for
16 communicating his views on “GUSD’s Sex-Change Policies.” The remainder of said
17 Paragraph 81 states only legal conclusions; accordingly, no response is required
18 from Defendant. To the extent any such response is deemed required, Defendant
19 lacks knowledge or information sufficient to form a belief as to the truth of the
20 remaining allegations contained in said Paragraph 81 and, on that basis, denies each
21 and every remaining allegation contained in said Paragraph 81.

22 82. Defendant denies, generally and specifically, each and every allegation
23 in Paragraph 82 of the SAC.

24 83. Defendant denies, generally and specifically, each and every allegation
25 in Paragraph 83 of the SAC.

26 84. Defendant lacks knowledge or information sufficient to form a belief as
27 to the truth of the allegations contained in Paragraph 84 of the SAC and, on that
28 basis, denies each and every allegation contained in said Paragraph 84.

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1 85. Answering Paragraph 85 of the SAC, Defendant admits, on information
2 and belief, that a teacher at a different GUSD school than the one where Plaintiff
3 taught showed her third grade students a video to teach them about Pride month, that
4 this video was not sexually inappropriate, that some parents objected to the video on
5 grounds that included the video being inappropriate based on the age of the children,
6 that the teacher was subjected to death threats and other backlash and became
7 concerned for their safety, and that the School Board condemned these threats and
8 other backlash. Defendant denies, generally and specifically, each and every
9 remaining allegation in said Paragraph 85.

10 86. Defendant lacks knowledge or information sufficient to form a belief as
11 to the truth of the allegations contained in Paragraph 86 of the SAC and, on that
12 basis, denies each and every allegation contained in said Paragraph 86.

13 87. Defendant lacks knowledge or information sufficient to form a belief as
14 to the truth of the allegations contained in Paragraph 87 of the SAC and, on that
15 basis, denies each and every allegation contained in said Paragraph 87.

16 88. Answering Paragraph 88 of the SAC, Defendant admits, on information
17 and belief, that Plaintiff made complaints to GUSD of alleged harassment against
18 him, that the School Board and Dr. Watson were aware of these complaints, and that
19 two incidents of harassment alleged by Plaintiff were complaints against him for
20 displaying a swastika at the School Board meeting of April 18, 2023, which the
21 complaining parties had the right to make and which GUSD had the responsibility to
22 investigate and determine whether or not the complaints could be substantiated.
23 Defendant admits, on information and belief, that two incidents of alleged
24 harassment of Plaintiff were posts on social media, that GUSD could not confirm
25 any other alleged harassment of Plaintiff, that there was no evidence that any alleged
26 harassment occurred within the employment context, during employment hours, or
27 by use of GUSD-issued accounts, and that GUSD believed such matters were
28 outside of its jurisdiction and should not be considered by GUSD as they were not

1 employment-related. Defendant denies, generally and specifically, each and every
2 remaining allegation contained in said Paragraph 88.

3 89. Answering Paragraph 89 of the SAC, Defendant admits, on information
4 and belief, that Plaintiff made complaints to GUSD of alleged harassment against
5 him, that the School Board and Dr. Watson were aware of these complaints, and that
6 two incidents of harassment alleged by Plaintiff were complaints against him for
7 displaying a swastika at the School Board meeting of April 18, 2023, which the
8 complaining parties had the right to make and which GUSD had the responsibility to
9 investigate and determine whether or not the complaints could be substantiated.

10 Defendant admits, on information and belief, that two incidents of alleged
11 harassment of Plaintiff were posts on social media, that GUSD could not confirm
12 any other alleged harassment of Plaintiff, that there was no evidence that any alleged
13 harassment occurred within the employment context, during employment hours, or
14 by use of GUSD-issued accounts, and that GUSD believed such matters were
15 outside of its jurisdiction and should not be considered by GUSD as they were not
16 employment-related. Defendant denies, generally and specifically, each and every
17 remaining allegation contained in said Paragraph 89.

18 90. Answering Paragraph 90 of the SAC, Defendant admits that School
19 Board meetings are professional meetings that are directly connected to GUSD's
20 business, and that Plaintiff's action in displaying a swastika at a School Board
21 meeting on April 18, 2023, which was attended by GUSD teachers, was directly
22 connected to teachers in a professional capacity. Defendant denies, generally and
23 specifically, each and every remaining allegation contained in said Paragraph 90.

24 91. Defendant denies, generally and specifically, each and every allegation
25 in Paragraph 91 of the SAC.

26 92. Defendant denies, generally and specifically, each and every allegation
27 in Paragraph 92 of the SAC.

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1 93. Answering Paragraph 93 of the SAC, Defendant admits, on information
2 and belief, that the School Board made various changes to the rules of its meetings,
3 that one change was to limit the total time for public comments to 60 minutes to
4 promote efficiency, including limits of 21 minutes per topic and three minutes per
5 speaker, the latter being a reduction from five minutes per speaker, and that another
6 change was to prohibit signs at meetings because they were seen as dangerous and
7 disruptive, in response to incidents where meeting attendees blocked speakers with
8 signs and posters and caused other disruptions by waving signs, and concerns that
9 signs could be used as weapons. Defendant denies, generally and specifically, each
10 and every remaining allegation contained in said Paragraph 93.

11 94. Defendant lacks knowledge or information sufficient to form a belief as
12 to the truth of the allegations contained in Paragraph 94 of the SAC and, on that
13 basis, denies each and every allegation contained in said Paragraph 94.

14 95. Defendant denies, generally and specifically, each and every allegation
15 in Paragraph 95 of the SAC.

16 96. Answering Paragraph 96 of the SAC, Defendant admits that on or
17 about March 3, 2023, Plaintiff submitted a Certificated Retirement Form to GUSD,
18 dated March 3, 2023, requesting that he retire effective June 9, 2023, and that
19 Plaintiff retired effective June 9, 2023, which was at the end of the school year.
20 Defendant denies, generally and specifically, each and every remaining allegation
21 contained in said Paragraph 96.

22 97. Answering Paragraph 97 of the SAC, Defendant realleges and
23 incorporates herein by reference the answers and responses contained in all
24 preceding Paragraphs of this Answer as though fully set forth.

25 98. Paragraph 98 of the SAC states only legal conclusions; accordingly, no
26 response is required from Defendant. To the extent any such response is deemed
27 required, Defendant lacks knowledge or information sufficient to form a belief as to
28 the truth of the allegations contained in said Paragraph 98 and, on that basis, denies

1 each and every allegation contained in said Paragraph 98.

2 99. Paragraph 99 of the SAC states only legal conclusions; accordingly, no
3 response is required from Defendant. To the extent any such response is deemed
4 required, Defendant lacks knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in said Paragraph 99 and, on that basis, denies
6 each and every allegation contained in said Paragraph 99.

7 100. Defendant denies, generally and specifically, each and every allegation
8 in Paragraph 100 of the SAC.

9 101. Defendant denies, generally and specifically, each and every allegation
10 in Paragraph 101 of the SAC.

11 102. Defendant denies, generally and specifically, each and every allegation
12 in Paragraph 102 of the SAC.

13 103. Defendant denies, generally and specifically, each and every allegation
14 in Paragraph 103 of the SAC.

15 104. Defendant denies, generally and specifically, each and every allegation
16 in Paragraph 104 of the SAC.

17 105. Answering Paragraph 105 of the SAC, Defendant realleges and
18 incorporates herein by reference the answers and responses contained in all
19 preceding Paragraphs of this Answer as though fully set forth.

20 106. Defendant denies, generally and specifically, each and every allegation
21 in Paragraph 106 of the SAC.

22 107. Paragraph 107 of the SAC states only legal conclusions; accordingly,
23 no response is required from Defendant. To the extent any such response is deemed
24 required, Defendant lacks knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in said Paragraph 107 and, on that basis, denies
26 each and every allegation contained in said Paragraph 107.

27 108. Defendant denies, generally and specifically, each and every allegation
28 in Paragraph 108 of the SAC.

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1 109. Defendant denies, generally and specifically, each and every allegation
2 in Paragraph 109 of the SAC.

3 110. Defendant denies, generally and specifically, each and every allegation
4 in Paragraph 110 of the SAC.

5 111. Defendant denies, generally and specifically, each and every allegation
6 in Paragraph 111 of the SAC.

7 112. Defendant denies, generally and specifically, each and every allegation
8 in Paragraph 112 of the SAC.

9 113. Defendant denies, generally and specifically, each and every allegation
10 in Paragraph 113 of the SAC.

11 114. Defendant denies, generally and specifically, each and every allegation
12 in Paragraph 114 of the SAC.

13 115. Answering Paragraph 115 of the SAC, Defendant realleges and
14 incorporates herein by reference the answers and responses contained in all
15 preceding Paragraphs of this Answer as though fully set forth.

16 116. Defendant denies, generally and specifically, each and every allegation
17 in Paragraph 116 of the SAC.

18 117. Defendant denies, generally and specifically, each and every allegation
19 in Paragraph 117 of the SAC.

20 118. Defendant denies, generally and specifically, each and every allegation
21 in Paragraph 118 of the SAC.

22 119. Defendant denies, generally and specifically, each and every allegation
23 in Paragraph 119 of the SAC.

24 120. Defendant denies, generally and specifically, each and every allegation
25 in Paragraph 120 of the SAC.

26 121. Defendant denies, generally and specifically, each and every allegation
27 in Paragraph 121 of the SAC.

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1 122. Defendant denies, generally and specifically, each and every allegation
2 in Paragraph 122 of the SAC.

3 123. Answering Paragraph 123 of the SAC, Defendant realleges and
4 incorporates herein by reference the answers and responses contained in all
5 preceding Paragraphs of this Answer as though fully set forth.

6 124. Paragraph 124 of the SAC states only legal conclusions and pertains
7 only to a claim that has already been dismissed with prejudice; accordingly, no
8 response is required from Defendant. To the extent any such response is deemed
9 required, Defendant denies, generally and specifically, each and every allegation in
10 said Paragraph 124.

11 125. Paragraph 125 of the SAC states only legal conclusions and pertains
12 only to a claim that has already been dismissed with prejudice; accordingly, no
13 response is required from Defendant. To the extent any such response is deemed
14 required, Defendant denies, generally and specifically, each and every allegation in
15 said Paragraph 125.

16 126. Paragraph 126 of the SAC states only legal conclusions and pertains
17 only to a claim that has already been dismissed with prejudice; accordingly, no
18 response is required from Defendant. To the extent any such response is deemed
19 required, Defendant denies, generally and specifically, each and every allegation in
20 said Paragraph 126.

21 127. Paragraph 127 of the SAC states only legal conclusions and pertains
22 only to a claim that has already been dismissed with prejudice; accordingly, no
23 response is required from Defendant. To the extent any such response is deemed
24 required, Defendant denies, generally and specifically, each and every allegation in
25 said Paragraph 127.

26 128. Paragraph 128 of the SAC states only legal conclusions and pertains
27 only to a claim that has already been dismissed with prejudice; accordingly, no
28 response is required from Defendant. To the extent any such response is deemed

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1 required, Defendant denies, generally and specifically, each and every allegation in
2 said Paragraph 128.

3 129. Paragraph 129 of the SAC states only legal conclusions and pertains
4 only to a claim that has already been dismissed with prejudice; accordingly, no
5 response is required from Defendant. To the extent any such response is deemed
6 required, Defendant denies, generally and specifically, each and every allegation in
7 said Paragraph 129.

8 130. Paragraph 130 of the SAC states only legal conclusions and pertains
9 only to a claim that has already been dismissed with prejudice; accordingly, no
10 response is required from Defendant. To the extent any such response is deemed
11 required, Defendant denies, generally and specifically, each and every allegation in
12 said Paragraph 130.

13 131. The SAC’s Prayer for Relief, and Paragraphs A through G, inclusive,
14 therein, only states relief sought by Plaintiff; accordingly, no response is required
15 from Defendant. To the extent any such response is deemed required, Defendant
16 denies, generally and specifically, each and every allegation in said Prayer for
17 Relief.

18 **FIRST AFFIRMATIVE DEFENSE**

19 **(Failure to State a Claim)**

20 132. Plaintiff’s SAC fails to state facts sufficient to constitute a claim upon
21 which relief can be granted.

22 **SECOND AFFIRMATIVE DEFENSE**

23 **(Waiver)**

24 133. Any recovery on Plaintiff’s SAC is barred by waiver.

25 **THIRD AFFIRMATIVE DEFENSE**

26 **(Estoppel)**

27 134. Plaintiff is estopped by his conduct from any recovery under the SAC.

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FOURTH AFFIRMATIVE DEFENSE

(Laches)

135. Any recovery on Plaintiff’s SAC is barred by laches.

FIFTH AFFIRMATIVE DEFENSE

(Unclean Hands)

136. Any recovery on Plaintiff’s SAC is barred by unclean hands.

SIXTH AFFIRMATIVE DEFENSE

(Consent)

137. Any recovery on the SAC is barred, in whole or in part, on the grounds that Plaintiff consented to the conduct challenged therein.

SEVENTH AFFIRMATIVE DEFENSE

(Qualified Immunity)

138. At all times relevant hereto, Defendant acted with a reasonable belief that her actions were in accordance with applicable law, and had no contrary knowledge. At no time relevant hereto did Defendant act in contravention of clearly-established statutory or constitutional rights of Plaintiff of which a reasonable person should have known. Therefore, any recovery on Plaintiff’s SAC is barred, in whole or in part, by the doctrine of qualified immunity.

EIGHTH AFFIRMATIVE DEFENSE

(Defendant’s Free Speech Rights)

139. Any recovery on Plaintiff’s SAC is barred, in whole or in part, because the conduct alleged therein was a lawful and protected exercise of Defendant’s free speech rights under the First Amendment to the United States Constitution.

NINTH AFFIRMATIVE DEFENSE

(Failure to Exhaust)

140. Plaintiff is barred from proceeding by reason of Plaintiff’s failure to exhaust successfully the judicial and administrative remedies available to Plaintiff.

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TENTH AFFIRMATIVE DEFENSE

(Collateral Estoppel/Res Judicata)

141. Any recovery on Plaintiff’s SAC is barred, in whole or in part, by collateral estoppel and/or res judicata.

ELEVENTH AFFIRMATIVE DEFENSE

(Same Decision)

142. Any recovery on Plaintiff’s SAC is barred, in whole or in part, because Defendant would have made the same decisions or taken the same actions, if any, irrespective of Plaintiff’s alleged protected speech or activities.

TWELFTH AFFIRMATIVE DEFENSE

(Adequate Justification)

143. Any recovery on Plaintiff’s SAC is barred, in whole or in part, because to the extent Defendant treated Plaintiff differently from other members of the general public, she had an adequate justification for doing so.

THIRTEENTH AFFIRMATIVE DEFENSE

(Good Faith)

144. Any recovery on Plaintiff’s SAC is barred, in whole or in part, because any and every action taken by Defendant with respect to Plaintiff was privileged, and undertaken with good cause, in good faith, or with a good faith belief that good cause existed.

FOURTEENTH AFFIRMATIVE DEFENSE

(No Protected Conduct by Plaintiff)

145. Plaintiff did not engage in any protected conduct under the First Amendment, or any other constitutional, statutory or common law provision.

FIFTEENTH AFFIRMATIVE DEFENSE

(Management Discretion)

146. Any and all conduct of which Plaintiff complains was a just and proper exercise of management discretion, undertaken for a fair and honest reason, without

1 malice or unlawful motive, and regulated by good faith under the circumstances that
2 existed.

3 **SIXTEENTH AFFIRMATIVE DEFENSE**

4 **(Legitimate Reasons)**

5 147. At all times, any and all actions taken with regard to Plaintiff were
6 taken without retaliation, based on legitimate reasons and not as a pretext for illegal
7 action or motive.

8 **SEVENTEENTH AFFIRMATIVE DEFENSE**

9 **(After-Acquired Evidence)**

10 148. Any recovery on the SAC is barred, in whole or in part, by the after-
11 acquired evidence doctrine.

12 **EIGHTEENTH AFFIRMATIVE DEFENSE**

13 **(Plaintiff As Cause)**

14 149. Plaintiff is barred from recovering for any injuries or damages because
15 such injuries and damages were the sole, direct and proximate result of Plaintiff's
16 own conduct.

17 **NINETEENTH AFFIRMATIVE DEFENSE**

18 **(No But-For or Proximate Causation)**

19 150. Any acts, or omissions to act, by Defendant were not the but-for cause,
20 or the proximate cause, of any damages or injuries allegedly suffered by Plaintiff.

21 **TWENTIETH AFFIRMATIVE DEFENSE**

22 **(Plaintiff's Failure to Mitigate)**

23 151. Any recovery on Plaintiff's SAC is barred, in whole or in part, by
24 Plaintiff's failure to mitigate damages, and Defendant's liability, if any, must be
25 limited to the amount of damage which would have been suffered if Plaintiff had
26 exercised the reasonable diligence required of him in mitigating damages.

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PRAYER

WHEREFORE, Defendant prays as follows:

1. Plaintiff take nothing by way of his SAC;
2. Defendant be awarded all reasonable attorneys’ fees and costs of suit incurred herein; and
3. Defendant be awarded such other and further relief as the Court may deem just and proper.

DATED: December 12, 2024

BALLARD ROSENBERG
GOLPER & SAVITT, LLP

By: 

Linda Miller Savitt
John J. Manier
Attorneys for all named Defendants

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