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NETWORK

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DAVID RAMIREZ by his next friend
Leticia Ramirez; MARIA GOMEZ by her
next friend Linda Gomez; SUSAN
TURNER; GAY- STRAIGHT ALLIANCE
NETWORK,

Plaintiffs,

vs.

LOS ANGELES UNIFIED SCHOOL
DISTRICT; LOS ANGELES UNIFIED
SCHOOL DISTRICT BOARD OF
EDUCATION; SUPERINTENDENT
OF SCHOOLS FOR LOS ANGELES

Case No.:

COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF AND
DAMAGES

DEMAND FOR JURY TRIAL

[The Equal Protection and Due
Process clauses of and Privacy
and Freedom of Association under
the Untied States and California
Constitutions; Title IX of the
Education Amendments of 1972,

1 UNIFIED SCHOOL DISTRICT;
2 MYRNA RIVERA, Superintendent,
3 Local District 8, LAUSD, an
4 individual; HERBERT A. JONES,
5 Principal, Washington Preparatory
6 High School, an individual; ANN
7 MAYEDA, Assistant Principal,
8 Washington Preparatory High School,
9 an individual; DR. KELVIN LAND,
10 Assistant Principal, Washington
11 Preparatory High School, an individual;
12 JACQUELINE HENRY, Assistant
13 Principal, Washington Preparatory
14 High School, an individual; VIVIAN
15 LAIDLEY, an individual; E.R.
16 SMALL, an individual; M. KEYES, an
17 individual; VINCE SAMUELS, an
18 individual; FRANK R. DEVEREAUX,
19 Dean, Washington Preparatory High
20 School, an individual; and DOES 1-10,
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Defendants.

20 U.S.C. § 1681 et seq.; and
State laws]

1 **JURISDICTION AND VENUE**

2 1. This Court has jurisdiction over Plaintiffs’ federal civil rights claims
3 under 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise
4 under the Constitution and laws of the United States. Declaratory relief is
5 authorized under 28 U.S.C. §§ 2201 and 2202. This Court has supplemental
6 jurisdiction over Plaintiffs’ state-law claims arising from the same factual
7 circumstances, events, and transactions, under 28 U.S.C. § 1367(a). In
8 compliance with California Government Code § 910 et seq., Plaintiffs have
9 filed administrative claims for damages under the California Tort Claims Act
10 (“CTCA”) with the Los Angeles Unified School District and intend to seek
11 leave to amend this Complaint to add damages claims under state law pursuant
12 to the CTCA if those administrative claims are rejected.

13 2. Venue is proper in this Court under 28 U.S.C. § 1391(b) because the
14 Defendants reside in, and all incidents, events, and occurrences giving rise to
15 this action occurred in, the County of Los Angeles, California.

16 **INTRODUCTION**

17 3. Administrators, security guards, and teachers at Washington Preparatory
18 High School (“Washington Prep”) in Los Angeles operate a climate rife with
19 hostility towards and discrimination against students and staff based on their
20 actual or perceived sexual orientation, sex, and sex stereotypes. Lesbian, gay,
21 and bisexual students, a school counselor at Washington Prep, and the City of
22 Los Angeles Human Relations Commission have tried for at least ten months to
23 work with the Los Angeles Unified School District and with school
24 administrators to bring the school into compliance with the law such that it
25 treats all students and staff with equal dignity, but these efforts have failed
26 because of the indifference and in many instances hostility and lack of will
27 among chief administrators and many faculty.

1 4. Specific instances of harassment and discrimination include but are not
2 limited to:

3 • The local district superintendent directed that a school counselor
4 must not distribute “material with gay content,” even after months of
5 administrative mediation to bring the school into compliance with
6 nondiscrimination standards

7 • Another assistant principal refuses to speak the word “gay” over
8 the school public address system to announce a meeting of the Gay-Straight
9 Alliance club

10 • An assistant principal searched a staff member’s office in search
11 of “material with gay content” without the staff member’s knowledge or
12 consent

13 • Administrators and deans suspend and otherwise discipline
14 students for complaining about harassment and for choosing same-sex partners

15 • Teachers threaten to, and do, “out” students to their families as
16 punishment for students’ sexual orientation

17 • Students call other students “faggot,” “sissy,” “fruitcake,”
18 “fucking lesbo,” and other derogatory terms without repercussion from
19 administrators, teachers, or staff

20 • Administrators, teachers, and staff themselves call students names
21 such as “faggot” and “sinner” and tell the students they are “wrong,” “unholy,”
22 “hate[d],” and “not supposed to be like this” because the students are, or are
23 perceived to be, lesbian, gay, or bisexual

24 • A teacher stood idly by while a student physically assaulted
25 another student during class based on the student’s sexual orientation because
26 the teacher thought the assaulted student “needed to toughen up”

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1 • Security guards verbally harangue same-sex couples but ignore
2 public displays of affection from heterosexual student couples on campus

3 • In January, security guards and deans humiliated and taunted
4 students for two and a half hours, replaying over and over again a surveillance
5 camera tape of the two boys kissing and asking the boys which of the boys is
6 the “girl” in the relationship

7 • Administrators have in the past refused to allow same-sex couples
8 to attend the prom together; this year, after senior administration received two
9 nondiscrimination trainings, the Principal stated that he would allow same-sex
10 couples to attend prom but that he is “not happy” about having to do so

11 • The Principal refuses to investigate charges that school staff treat
12 students who are perceived to be lesbian, gay, or bisexual differently—and less
13 well—than they treat students who are perceived to be heterosexual.

14 5. The situation at Washington Prep in Los Angeles has become
15 intolerable to its gay, lesbian, and bisexual students and staff and sets a horrific
16 example of bigotry and prejudice to the entire student body and school
17 community.

18 6. This complaint initiates a civil rights action demanding declaratory and
19 injunctive relief and monetary damages from the Los Angeles Unified School
20 District and its governing board, agents, and employees for depriving Plaintiffs
21 of established constitutional and statutory rights based on their actual or
22 perceived sexual orientation, sex, and sex stereotyping. This suit also
23 challenges Defendants’ failure to comply with federal and State law regarding
24 discrimination based on actual or perceived sexual orientation, sex, and sex
25 stereotyping.

26 7. Specifically, this action challenges Defendants’ custom, practice, and
27 policy of denying Plaintiffs their rights secured by the First, Fourth, Fifth,
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1 Ninth, and Fourteenth Amendments to the United States Constitution; 42
2 U.S.C. § 1983; Title IX of the Education Amendments of 1972, 20 U.S.C. §§
3 1681-1688; Article I, Sections 1 and 7(a), (b) and Article IV, Section 16(a) of
4 the California Constitution; California Civil Code Sections 51, 51.7, 52(a), and
5 52.1(b); California Education Code Sections 200, 212.5, 212.6, 220, and 230;
6 California Government Code Sections 11135 and 11139; and California Penal
7 Code Section 422.6.

8 **PARTIES**

9 8. Plaintiffs DAVID RAMIREZ and MARIA GOMEZ are, and at all times
10 relevant to this action were, students attending Washington Prep in the Los
11 Angeles Unified School District who are or are perceived to be lesbian, gay, or
12 bisexual. Plaintiffs DAVID RAMIREZ and MARIA GOMEZ have used
13 pseudonyms in this complaint due to the highly sensitive nature of the
14 allegations contained herein. As the complaint details, Plaintiffs have already
15 been subjected to severe and pervasive harassment and discrimination based on
16 their perceived or actual sexual orientation, sex, and sex stereotyping and seek
17 to avoid further harassment, stigma, retaliation, and violence. Plaintiffs David
18 Ramirez and Maria Gomez satisfy the requirements of Rule 10(a) of the
19 Federal Rules of Civil Procedure. Pseudonym litigation should be permitted in
20 this case because Plaintiffs meet the following requirements laid out in Rule
21 10(a): Plaintiffs are minors, they are challenging governmental activity, and
22 pressing the lawsuit using their real identities would compel the Plaintiffs to
23 reveal highly intimate information. Does I Thru XXIII v. Advanced Textile
24 Corp., 214 F.3d 1058 (9th Cir. 2000).

25 9. Plaintiff David Ramirez appears in this action by and through his next
26 friend, his mother, Leticia Ramirez.

1 10. Plaintiff Maria Gomez appears in this action by and through her next
2 friend, her mother, Linda Gomez.

3 11. Plaintiff SUSAN TURNER is, and at all times relevant to this action
4 was, a guidance counselor employed by Los Angeles Unified School District at
5 Washington Prep. Plaintiff Turner is, and at all times relevant to this action
6 was, a faculty sponsor of the It's OK club, which is a Washington Prep Gay-
7 Straight Alliance ("GSA") student club. The mission of the club is to provide
8 awareness of difference in others, tolerance, and information about the
9 community. Plaintiff Turner is openly lesbian.

10 12. Plaintiff GAY-STRAIGHT ALLIANCE NETWORK ("GSA Network")
11 sues both on behalf of its members and to protect its own interests. The GSA
12 Network is a youth-led nonprofit organization made up of gay, lesbian,
13 bisexual, transgender, and heterosexual students and supportive adults who are
14 dedicated to eliminating homophobia and intolerance in schools. GSA
15 Network is a project of the Tides Center in San Francisco, which is a 501(c)(3)
16 nonprofit organization. GSA Network is headquartered in San Francisco,
17 California, and has an office in Los Angeles, California, by which it monitors
18 homophobia and intolerance in schools throughout Los Angeles, including
19 Washington Prep. At present, 91 GSA clubs in Los Angeles County and 42
20 GSA clubs in Los Angeles Unified School District, including the It's OK club
21 at Washington Prep, are registered with GSA Network. Plaintiff GSA Network
22 has members who are current and prospective students at Washington Prep,
23 who have suffered or will suffer harassment, discrimination, humiliation, and
24 abuse based on their actual or perceived sexual orientation, sex, and sex
25 stereotypes, and their association with the It's OK club. In addition, Plaintiff
26 GSA Network has members who are adults in the Los Angeles community,
27 including parents of students of current or prospective students of Washington
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1 Prep and who have an interest in eliminating the hostile environment that exists
2 at the school. GSA Network also includes heterosexual youth and adult
3 members who strongly believe that the discrimination, harassment, and
4 hostility against students attending and staff working at Washington Prep
5 harms the entire community, not just those community members who are gay,
6 lesbian, or bisexual.

7 13. Defendant LOS ANGELES UNIFIED SCHOOL DISTRICT (“LAUSD”)
8 is a public school district organized and operating under the laws of the State of
9 California. LAUSD controls and operates Washington Prep and other schools
10 in the Los Angeles area. A portion of the funding for each of these schools
11 comes from the State and federal governments.

12 14. Defendant LOS ANGELES UNIFIED SCHOOL DISTRICT BOARD
13 OF EDUCATION controls and operates the LAUSD.

14 15. Defendant SUPERINTENDENT OF SCHOOLS FOR LOS ANGELES
15 UNIFIED SCHOOL DISTRICT supervises LAUSD and is and at all relevant
16 times was acting within the scope of employment by and pursuant to the
17 policies or practices of the LAUSD as an administrator.

18 16. Defendants MYRNA RIVERA, Superintendent, Local District 8,
19 LAUSD; HERBERT A. JONES, Principal, Washington Prep; ANN MAYEDA,
20 DR. KELVIN LAND, JACQUELINE HENRY, Assistant Principals,
21 Washington Prep; VIVIAN LAIDLEY, E.R. SMALL, and M. KEYES,
22 teachers, Washington Prep, are or were at all relevant times, individuals
23 working as employees, agents, and supervisors of LAUSD and were acting
24 within the scope of their employment by and pursuant to the policies or
25 practices of the LAUSD as administrators or teachers.

26 17. Defendants VINCE SAMUELS, security guard, Washington Prep; and
27 FRANK R. DEVEREAUX, dean, Washington Prep are or were at all relevant
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1 times, individuals working as employees, agents, and supervisors of LAUSD
2 and were acting within the scope of their employment by and pursuant to the
3 policies or practices of the LAUSD as security staff and deans. (Defendants
4 listed in paragraphs 15, 16, and 17 shall hereinafter be called the “Individual
5 Defendants.”)

6 18. The LAUSD and Individual Defendants are entrusted with the
7 responsibility for creating and maintaining an educational environment that is
8 physically and psychologically safe for students. The LAUSD and Individual
9 Defendants are also entrusted with the responsibility for making policy and/or
10 for implementing disciplinary, harassment, and anti-discrimination laws and
11 policies. Further, the LAUSD and the Individual Defendants are also entrusted
12 with the responsibility for enforcing, and ensuring that their subordinates,
13 agents, and employees enforce, such laws and policies by taking prompt
14 remedial action following acts of inappropriate behavior, harassment, or
15 discrimination against students or staff.

16 19. Upon information and belief, each of the Defendants failed to make,
17 implement, or enforce, and ensure that their subordinates, agents, and
18 employees enforced, the above-described laws and policies or to take necessary
19 and prompt remedial action following knowledge or reports of harassment
20 and/or discrimination.

21 20. Upon information and belief, each of the Defendants, including
22 Defendants DOES 1 through 10, performed, participated in, aided and/or
23 abetted, or was deliberately indifferent to the acts averred herein, proximately
24 caused the damages averred below, and is liable to Plaintiffs for the damages
25 and other relief sought herein. The true names and official capacities of
26 Defendants designated as DOES 1 through 10, inclusive, are unknown to
27 Plaintiffs, who therefore sue these Defendants by such fictitious names.

1 Plaintiffs will seek leave of Court to amend their complaint to show the true
2 names and capacities of these Defendants when they have been ascertained.
3 21. Upon information and belief, and at all relevant times, each and every
4 Defendant was the agent or employee of each and every other Defendant, was
5 acting within the course and scope of such agency or employment, and was
6 acting with the consent, permission, and authorization of each of the remaining
7 Defendants. Upon information and belief, all actions of each Defendant were
8 ratified and approved by every other Defendant. Further, upon information and
9 belief, all of the actions alleged in this complaint were taken pursuant to the
10 customs, policies, and practices of the LAUSD and Defendants have been, are
11 presently, and will be acting under the color and authority of the laws of the
12 United States and the State of California.

13 **STATEMENT OF FACTS**

14 22. Plaintiffs David Ramirez, Maria Gomez, Susan Turner, and members of
15 the GSA Network's It's OK club are and have been repeatedly harassed,
16 assaulted, intimidated, and discriminated against by teachers, administrators,
17 security guards, school police officers, and other students, based on Plaintiffs'
18 actual or perceived sexual orientation, sex, and sex stereotyping. The
19 harassment, intimidation, and discrimination occurred during school hours and
20 on school grounds. Defendants LAUSD, Myrna Rivera, Herbert A. Jones, Dr.
21 Kelvin Land, Jacqueline Henry, and other agents and employees of the LAUSD
22 are and were aware of the harassment, intimidation, and discrimination faced
23 by Plaintiffs and had the duty and authority to institute corrective measures, but
24 they deliberately and intentionally failed to take steps reasonably calculated to
25 end it and, at times, actively instigated and promoted acts of intolerance. When
26 Defendants did take action, the action was so purposefully and transparently
27 ineffective that it merely emboldened Plaintiffs' attackers and communicated
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1 an unmistakable message: that the Defendants approved of discrimination
2 toward Washington Prep students and staff who are or are perceived to be
3 lesbian, gay, or bisexual.

4 23. At the end of July and in early August 2004, some of Plaintiffs
5 individually, and the It's OK club as a group, filed formal administrative
6 complaints with the LAUSD pursuant to the Uniform Complaint Procedures,
7 Title 5 of the California Code of Regulations, Sections 4600-4671. Defendants
8 LAUSD and Herbert A. Jones went through the motions of beginning the
9 mediation required by those procedures but failed timely to follow through
10 with the efforts or to take steps necessary to stop the harassment and
11 discriminatory treatment on the basis of actual or perceived sexual orientation,
12 sex, or sex stereotyping. In fact, Defendants' steps since the Uniform
13 Complaint Procedures complaints were filed were so blatantly half-hearted and
14 ineffective that they exacerbated the harassment and discriminatory treatment
15 because of an unwillingness to discipline and counsel faculty and staff who are
16 culpable of discriminatory actions.

17 24. The harassment and discriminatory treatment on the basis of actual or
18 perceived sexual orientation, sex, and sex stereotyping that Plaintiffs have
19 experienced at Washington Prep have continued and escalated. The specific
20 instances of harassment and Defendants' failure to take action listed herein are
21 merely representative, not exhaustive. The harassment and discriminatory
22 treatment has included but not been limited to the following:

23 **Teacher Harassment of Students**

24 25. On or about August 11, 2004, after two female students kissed goodbye
25 at lockers near Defendant teacher Ms. Keyes's classroom, Ms. Keyes called
26 one of the students over to ask her for her name. The student asked Ms. Keyes
27 why she had asked the student to identify herself; Ms. Keyes responded that
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1 she had done so because Ms. Keyes was “going to call your mama and tell her
2 you’re a lesbian and a sinner.” When the student pointed out that a
3 heterosexual couple were kissing nearby and that Ms. Keyes had not said
4 anything to them, Ms. Keyes told the student that “what you are doing is
5 wrong,” making clear the teacher’s belief that heterosexual couples’ identical
6 behavior is not wrong.

7 26. On or about July 27, 2004, Defendant homeroom teacher and coach Mr.
8 E. R. Small asked his class, after the It’s OK club’s schedule was announced
9 for the first time in the semester, what the It’s OK club was about. When the
10 students did not answer his question, Mr. Small said that “the club is saying it’s
11 ok to be a faggot, but it’s not ok to be a faggot.” Even after one of Mr. Small’s
12 students identified himself as a member of the It’s OK club and explained the
13 purpose of the club, Mr. Small persisted in saying to the class that the club
14 indicates that it is OK to be a “faggot.” The It’s OK club member told the
15 teacher that he objected to the use of the word “faggot.” The It’s OK club
16 member was so distraught by Mr. Small’s comments that the student walked
17 out of the class. The It’s OK club member later formally reported the incident
18 and Plaintiff Susan Turner filed a Uniform Complaint Procedures complaint
19 with LAUSD on his behalf. Upon information and belief, Mr. Small has
20 received no discipline, nor has any thorough or good faith investigation been
21 undertaken.

22 27. On or about July 22, 2004, Defendant teacher Vivian Laidley told
23 student Plaintiff Maria Gomez that she is a “sinner” whose “ways” Ms. Laidley
24 “hates” because they are “unholy” based on Maria’s sexual orientation and
25 status as President of the It’s OK club.

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1 30. On or about September 30, 2004, Defendant Assistant Principal Dr.
2 Kelvin Land asked student Plaintiff Maria Gomez to exclude the word “gay”
3 from an announcement, stating that Dr. Land did not believe Defendant
4 Principal Herbert A. Jones would approve of the word “gay” being spoken over
5 the school loudspeaker.

6 **Campus Security Officer Harassment of Students**

7 31. On or about October 13, 2004, security officers refused to include in a
8 security report about a stolen cell phone information that students had called
9 the student who complained about having his cell phone stolen a “faggot” and
10 other derogatory names for gay men.

11 32. On or about August 19, 2004, Defendant security guard Vince Samuels
12 at Washington Prep passed two female students cuddling on campus and told
13 the students not to “cut [themselves] short” in that way, indicating that the
14 guard disapproved of their sexual orientation. The two students asked the
15 security guard why the security guard did not say anything to heterosexual
16 couples on campus who similarly cuddled or displayed physical affection
17 toward one another, but the security guard ignored nearby heterosexual couples
18 and simply walked away. Only after the two female students complained
19 further about disparate treatment did the security guard return to tell nearby
20 heterosexual couples that these couples should separate.

21 33. On or about January 16, 2004, a security guard at Washington Prep
22 videotaped, via surveillance camera, two male students, one of whom was
23 Plaintiff David Ramirez, kissing one another during lunchtime in a closed
24 campus building. A security guard escorted both students to the security
25 office/camera room, where security personnel, including Defendant Vince
26 Samuels, and administrative staff, including the dean, Defendant Frank R.
27 Devereaux, and campus police officers watched the videotape over and over
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1 again in front of the Plaintiffs. Mr. Devereaux taunted the two students by
2 asking, in front of the group, “who is the guy, who is the girl in the
3 relationship?” A security guard also told the two students that they were “not
4 supposed to be like this.” The gathered group of security personnel and
5 administrative staff repeatedly laughed at the two male students and one of the
6 security guards raised his voice and told the two students what the two boys
7 were doing was “wrong.” David and the other student were humiliated and
8 became distraught; the other student started to cry. Security officers and Mr.
9 Devereaux then escorted both students to Mr. Devereaux’s office next door.
10 Mr. Devereaux told both students that the incident would be put in their records
11 and that he had to call their parents immediately. Both students were extremely
12 upset about the prospect of their parents finding out why they were being
13 suspended. One of the two students was worried because his parents did not
14 know he is gay. Without the students’ consent, Mr. Devereaux called both
15 students’ parents. David’s mother was not home. Mr. Devereaux spoke to the
16 other student’s mother and told her that her son had been suspended. The
17 students did not return to class that day and they spent over two and a half
18 hours with Mr. Devereaux. Mr. Devereaux suspended both boys for two days.
19 Later that afternoon, only after counselor Plaintiff Susan Turner informed the
20 dean that punishing gay students for behaviors for which heterosexual students
21 do not receive punishment is inappropriate did the Dean reduce the punishment
22 by not including the suspension in the students’ records. The students were
23 nevertheless instructed to stay home for two days, even though heterosexual
24 students engaging in the very same behavior would not be sent home. One of
25 the students was so humiliated by this incident that he transferred to another
26 school but then was sent back to Washington Prep because his out-of-district
27 permit was canceled.

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1 34. Throughout the 2003-2004 school year, a Washington Prep security
2 guard repeatedly taunted the then-vice-president of the It's OK club, calling
3 him "faggot" and asking him why he was "that way." This security guard
4 would follow the student around the school making his taunts. That student
5 has since left the school and the district to be home-schooled because the
6 atmosphere at Washington Prep was intolerable to the student.

7 **Administrator Refusal to Investigate Harassment or Discrimination**

8 **Against Students**

9 35. On or about August 20, 2004, when counselor Plaintiff Susan Turner
10 informed Defendant Principal Herbert A. Jones that a school security guard had
11 criticized two female students for displaying affection toward each other on
12 campus, Principal Jones stated that security guards simply separate all student
13 couples on campus. When Ms. Turner informed Principal Jones that she had
14 witnessed security guards ignoring heterosexual couples on campus, Principal
15 Jones declined to investigate.

16 **Unchecked Student Harassment of Students**

17 36. During class time and loudly enough for teachers to hear, students so
18 routinely harass one student member of the It's OK club that the It's OK club
19 member must leave several of his classes mid-period to take refuge in the
20 counselor's office. On an almost daily basis, students call this member of the
21 It's OK club "faggot," "fruitcake," or "gay" during class time in Mr. Wami's
22 U.S. History class. Several times each week in Ms. Lockhart's sixth-period
23 geometry class students taunt the It's OK club member with the same names.
24 Upon information and belief, neither Mr. Wami nor Ms. Lockhart intervenes to
25 stop the harassment; instead, both teachers persist in allowing their classrooms
26 to become a hostile environment for the It's OK club member. The abuse is so
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1 distressing to the It's OK club member that approximately four days out of
2 every week, the student misses at least two classes to escape from the abuse.
3 37. On or about July 22, 2004, a student named Corey repeatedly called
4 another student a "fucking lesbo" and "fucking fat-ass lesbo" loudly enough
5 that the whole class could hear during a third-period science class taught by a
6 substitute teacher named Mr. Everett in the absence of the regular teacher, Mr.
7 Brandon. After the harassed student finally retorted, Mr. Everett sent that
8 student to the dean's office but did not discipline her harasser, Corey. The
9 harassed student received an official warning, recorded in her official school
10 record, whereas Corey was given no discipline for his actions. The harassed
11 student found Washington Prep's environment toward lesbian, gay, and
12 bisexual students so intolerably hostile and abusive that she transferred to
13 another high school.

14 38. On or about July 13, 2004, while performing required service work, a
15 student member of the It's OK club visited Ms. Nicoladies' foods class to
16 summon a student. Another student called the It's OK club student a "faggot"
17 and then criticized the student for "liking" boys. Although Ms. Nicoladies
18 wrote a referral to Dr. Land to discipline the harasser, upon information and
19 belief, Dr. Land failed to discipline the harasser. Later on or about July 13,
20 2004, the same It's OK club member visited another class also to perform
21 required service work. In this class, another student called the student a
22 "faggot" in a manner that was audible to the entire class. Other students then
23 joined in the name-calling, and this time the It's OK club member responded
24 and an altercation ensued. The substitute teacher sent the It's OK club member
25 and one of the harassers to the Assistant Principal's office, where the two
26 students both received a two-day suspension and were withdrawn from service
27 class. Upon information and belief, none of the other harassers received
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1 discipline. Defendant Assistant Principal Dr. Land stated that the It's OK club
2 member must be removed from service class because the student "makes others
3 uncomfortable" based on his sexual orientation.

4 39. During the fall of the 2003-2004 school year, after several weeks during
5 which students called this same It's OK club member "faggot" and "sissy"
6 during class over and over again in front of the classroom teacher without any
7 repercussion, another student physically assaulted the It's OK club member
8 during class on the basis of the It's OK club member's sexual orientation. The
9 attack was so severe that the It's OK club member's clothes and backpack both
10 were torn. The teacher, who is now deceased, stated to Plaintiff counselor
11 Susan Turner that the teacher waited to intervene while the attack persisted in
12 his classroom because the It's OK club member "needed to toughen up." Upon
13 information and belief, Defendant Assistant Principal Dr. Kelvin Land failed to
14 discipline either the attacking student or the teacher.

15 **Administrator Efforts to Prevent Same-Sex Couples**

16 **From Attending Prom**

17 40. During the 2003-2004 school year, Defendant Assistant Principal Ann
18 Mayeda informed students that students could not take same-sex dates to prom.
19 Further, she refused to sell prom tickets to students who identified same-sex
20 dates.

21 41. In early October or late September 2004, Defendant Principal Herbert A.
22 Jones verbally discouraged same-sex prom attendance, telling three It's OK
23 club student members that, although Principal Jones now understands that he
24 must allow same-sex couples to attend the prom, he is not happy about it.

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1 **Unheeded Efforts to Resolve the Hostile Environment Administratively**

2 43. Plaintiffs repeatedly complained to Defendant school administrators,
3 teachers, and staff regarding the harassment and discrimination they suffered.

4 44. In January 2004, Plaintiff counselor Susan Turner began notifying
5 LAUSD regarding harassment at Washington Prep by writing to the
6 Educational Equity Compliance Office of LAUSD and the LAUSD
7 Coordinator for Project 10, which is a district program that provides education
8 and support services for lesbian, gay, bisexual, and transgender students and
9 students who are questioning their sexual orientation.

10 45. In late July and early August 2004, Plaintiffs filed multiple complaints
11 with LAUSD pursuant to the Uniform Complaint Procedures, Title 5 of the
12 California Code of Regulations, Sections 4600-4671.

13 46. Plaintiff counselor Susan Turner also informed Defendant Principal
14 Herbert A. Jones about incidents of harassment via confidential interoffice
15 memoranda.

16 47. Plaintiff counselor Susan Turner also sent copies of multiple memoranda
17 regarding specific incidents of harassment and discrimination to the
18 Educational Equity Compliance Office of LAUSD and to the LAUSD
19 Coordinator for Project 10.

20 48. Last August 2004, the City of Los Angeles Human Relations
21 Commission mailed repeated letters to Defendant Principal Herbert A. Jones,
22 and copied an LAUSD school board member, the Superintendent for LAUSD
23 Local District 8, and the Educational Equity Compliance Office of LAUSD,
24 alerting the Principal and the school district to the hostile environment,
25 harassment, and discrimination on the basis of sexual orientation, sex, and sex
26 stereotyping taking place at Washington Prep. Upon information and belief,
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1 the Educational Equity Compliance Office instructed the Principal not to
2 respond to the City of Los Angeles Human Relations Commission.

3 49. The LAUSD Educational Equity Compliance Office conducted required
4 mediation sessions between Plaintiff counselor Susan Turner and Defendant
5 Principal Herbert A. Jones, but Principal Jones ultimately declined to continue
6 attending the mediation sessions. The required 60-day period during which
7 Uniform Complaint Procedures complaints must be resolved lapsed on October
8 4, 2004, without final resolution from LAUSD. The LAUSD Educational
9 Equity Compliance Office recommended that Plaintiff counselor Susan Turner
10 continue the mediation process further but then failed to conduct any further
11 mediation meetings in the intervening three weeks. The last mediation session
12 the Educational Equity Compliance Office conducted with Susan Turner and
13 Principal Jones was on or about September 9, 2004. Since that date,
14 Defendants have perpetrated further harassing, discriminatory, and abusive
15 incidents against Plaintiffs, including instructing Ms. Turner not to distribute
16 “material with gay content,” refusing to speak the word “gay” over the public
17 address system to announce a meeting of the Gay-Straight Alliance, telling
18 students that the Principal is “not happy” about having to allow them to take
19 same-sex partners to prom, and continuing to harbor and foster name-calling
20 and taunting of students based on their actual or perceived sexual orientation,
21 sex, and sex stereotypes.

22 50. At all times, LAUSD nondiscrimination policies failed to protect
23 students and staff from discrimination on the basis of actual or perceived
24 sexual orientation, sex, and sex stereotyping. Defendants failed to enforce or to
25 have enforced these policies to prevent physical and emotional harm to
26 Plaintiffs.

1 51. Upon information and belief, Defendants do enforce and have enforced
2 policies and procedures to prevent and/or remedy sexual harassment,
3 discrimination, and violence as well as other forms of discrimination with
4 respect to students and staff who are or who are perceived to be heterosexual.

5 52. At all times, relevant LAUSD nondiscrimination trainings offered to
6 Washington Prep staff were clearly unreasonable because they were limited to
7 senior administration staff only whereas teachers, security guards, and other
8 school personnel repeatedly exhibited need for nondiscrimination training. In
9 addition, these LAUSD trainings were clearly unreasonable even as to the staff
10 who did receive the training because after the training staff persisted in
11 denigrating, harassing, and discriminating against students and staff based on
12 their sexual orientation or their perceived sexual orientation, sex, and sex
13 stereotypes.

14 **CAUSES OF ACTION:**

15 **FIRST CLAIM FOR RELIEF**

16 (42 U.S.C. § 1983; Equal Protection Under U.S. Constitution Amend. XIV)

17 [By All Plaintiffs against Defendant LAUSD by and through its Board of
18 Education and all Individual Defendants in their official capacities]

19 53. Plaintiffs reallege and replead all the allegations of the preceding
20 paragraphs of this Complaint and incorporate them herein by reference.

21 54. Students and staff, including the Plaintiffs herein, suffer pervasive and
22 unwelcome harassment and discrimination from their teachers, administrators,
23 security guards, other school staff, and other students at Washington Prep
24 because they are or are perceived to be lesbian, gay, or bisexual, and because of
25 sex and sex stereotypes. Defendants not only encourage but also perpetuate
26 and exacerbate this discrimination by actively and intentionally taking part in
27 harassing students and staff because they are or are perceived to be lesbian,
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1 gay, or bisexual, and because of sex and sex stereotypes and/or by being
2 deliberately indifferent to the harassment based on sexual orientation, sex, and
3 sex stereotypes occurring at Washington Prep.

4 55. LAUSD promotes and fosters this hostile environment. LAUSD's
5 formal and informal policies are not reasonably directed toward ensuring that
6 its schools are physically and emotionally safe for students and staff who are or
7 are perceived to be gay, lesbian, or bisexual and who do not conform to sex
8 stereotypes. Washington Prep teachers, counselors, security guards,
9 administrators, and other school staff are not trained at all or are not trained
10 reasonably in how to assist student and staff victims of harassment based on
11 sexual orientation, sex, and sex stereotypes at the school. Further, LAUSD has
12 no adequate formal or informal policy for preventing or responding to such
13 harassment; the absence of such a policy has the effect of promoting and
14 perpetuating harassment.

15 56. Students and staff who are or are perceived to be lesbian, gay, or
16 bisexual and who do not conform to sex stereotypes have complained
17 repeatedly to Washington Prep teachers and administrators about the hostile
18 climate for them at Washington Prep. In addition, students and a counselor
19 have filed multiple formal complaints with LAUSD pursuant to the Uniform
20 Complaint Procedures. Defendants and other teachers and administrators have
21 ignored the complaints and/or have taken no reasonable remedial actions to
22 prevent harassment. Upon information and belief, Defendants have taken
23 appropriate remedial actions to address sexual harassment complaints and
24 complaints based on sex brought by students who are not, and are not
25 perceived to be, lesbian, gay, or bisexual.

26 57. The intentional discrimination, hostile environment, and deliberate
27 indifference toward Washington Prep students and staff who are or are
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1 perceived to be lesbian, gay, or bisexual and who do not conform to sex
2 stereotypes causes substantial injury to Plaintiffs, including GSA Network and
3 its members, and violates the Fourteenth Amendment to the United States
4 Constitution and 42 U.S.C. § 1983. At all times, Defendants have been, are
5 presently, and will be acting under the color and authority of the laws of the
6 United States and the State of California.

7 58. Plaintiffs seek a judgment declaring that the intentional acts, failure to
8 act, and/or the acts of deliberate indifference described above regarding the
9 harassment and discrimination Plaintiffs have suffered because of Plaintiffs'
10 actual or perceived sexual orientation, sex, and sex stereotypes are prohibited
11 by the Equal Protection Clause of the Fourteenth Amendment to the United
12 States Constitution and 42 U.S.C. § 1983 and seek the injunctive relief set forth
13 in the prayer for relief.

14 SECOND CLAIM FOR RELIEF

15 (42 U.S.C. § 1983; Equal Protection Under U.S. Constitution Amend. XIV)

16 [By all Plaintiffs against all Defendants in their individual capacities]

17 59. Plaintiffs reallege and replead all the allegations of the preceding
18 paragraphs of this Complaint and incorporate them herein by reference.

19 60. Plaintiffs have been taunted, harassed, and discriminated against by
20 teachers, security guards, administrators, and other students at Washington
21 Prep on the basis of their actual or perceived sexual orientation, sex, and sex
22 stereotypes.

23 61. Defendant LAUSD has no adequate formal or informal policy to ensure
24 that Washington Prep is safe for students who, like Plaintiffs, are or are
25 perceived to be gay, lesbian, or bisexual and who do not conform to sex
26 stereotypes. When Plaintiffs complained to Defendants and to Defendant
27 LAUSD through the Educational Equity Compliance Office, these Defendants
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1 were deliberately indifferent to student and staff safety and none of them took
2 action reasonably calculated to stop the harassment and discrimination
3 Plaintiffs have been suffering. Upon information and belief, Defendants have
4 taken appropriate remedial actions to address sexual harassment complaints
5 and complaints based on sex brought by students who are not, and are not
6 perceived to be, lesbian, gay, or bisexual.

7 62. As a result of Defendants' actions, failure to act, and/or deliberate
8 indifference, Plaintiffs have been damaged emotionally by the harassment and
9 discrimination described above.

10 63. Defendants' actions, failure to act, and/or deliberate indifference towards
11 the harassment and discrimination Plaintiffs have suffered has been carried out
12 because of Plaintiffs' actual or perceived sexual orientation, sex, and sex
13 stereotypes in violation of the Equal Protection Clause of the Fourteenth
14 Amendment to the United States Constitution and 42 U.S.C. § 1983. At all
15 times, Defendants have been, are presently, and will be acting under the color
16 and authority of the laws of the United States and the State of California. As a
17 result of this discrimination and harassment, Plaintiffs suffered economic and
18 non-economic damages in an amount to be determined at trial.

19 **THIRD CLAIM FOR RELIEF**

20 (42 U.S.C. § 1983; Procedural and Substantive Due Process Under U.S.
21 Constitution Amend. XIV)

22 [By Plaintiffs David Ramirez, Maria Gomez, GSA Network against LAUSD by
23 and through its Board of Education and all Individual Defendants in their
24 official capacities]

25 64. Plaintiffs reallege and replead all the allegations of the preceding
26 paragraphs of this Complaint and incorporate them herein by reference.

1 65. Students who are or are perceived to be lesbian, gay, or bisexual and do
2 not conform to sex stereotypes have a protected liberty interest in a safe and
3 secure high school education, conferred by the California State Constitution
4 and Education Code. Article I, Section 28(c) recognizes that students in
5 California schools have an “inalienable right to attend campuses which are
6 safe, secure and peaceful,” and Article 9, Section 1 recognizes that “[a] general
7 diffusion of knowledge and intelligence [is] essential to the preservation of the
8 rights and liberties of the people.” The California Education Code, Sections
9 48200 et seq., recognizes the importance of education to children through the
10 age of eighteen. Further, Education Code Sections 200 et seq. specifically
11 prohibit discrimination on the basis of actual or perceived sexual orientation or
12 sex, including gender identity, and California regulations require the LAUSD
13 to implement policies to prevent and/or respond to acts of harassment and
14 discrimination in schools.

15 66. Defendant LAUSD and/or other Defendants have a custom, policy,
16 and/or they tolerate a custom or policy that results in intentional discrimination
17 and/or deliberate indifference to Plaintiffs’ legal rights. Defendants have
18 interfered and are interfering with the liberty interests of students who are or
19 are perceived to be lesbian, gay, or bisexual and who do not conform to sex
20 stereotypes at Washington Prep. Students who are or are perceived to be
21 lesbian, gay, or bisexual and who do not conform to sex stereotypes at
22 Washington Prep have been deprived of their liberty interest in a safe, secure,
23 and peaceful education without due process of law. They suffer pervasive and
24 unwelcome harassment and discrimination at the hands of their peers and from
25 their teachers, security guards, and administrators at Washington Prep.
26 Defendants and other Washington Prep teachers and security guards not only
27 encourage but also perpetuate this discrimination by actively and intentionally
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1 taking part in harassing students based on actual or perceived sexual
2 orientation, sex, and sex stereotypes and/or being deliberately indifferent to the
3 harassment and discrimination based on actual or perceived sexual orientation,
4 sex, and sex stereotypes occurring at Washington Prep.

5 67. Defendant LAUSD has no formal or informal policy that is reasonably
6 calculated to ensure that its schools are safe for students who are or are
7 perceived to be lesbian, gay, or bisexual and who do not conform to sex
8 stereotypes. Washington Prep teachers, counselors, security guards, and other
9 staff are not trained in how to assist student victims of harassment based on
10 actual or perceived sexual orientation, sex, or sex stereotypes at Washington
11 Prep. Further, LAUSD has no formal or informal policy that is reasonably
12 calculated to prevent or respond to such harassment; the absence of such a
13 policy has the effect of promoting and perpetuating the harassment.

14 68. Students who are or are perceived to be lesbian, gay, or bisexual and
15 who do not conform to sex stereotypes have repeatedly complained to
16 Washington Prep teachers, security guards, and administrators and to
17 Defendant LAUSD through its Educational Equity Compliance Office.
18 Defendants and other teachers, security guards, and administrators have
19 ignored their complaints, have taken no effective actions, and have not
20 attempted to enact formal or informal policies and procedures for how to
21 prevent such harassment. Even when harassment and complaints have
22 increased and escalated after students have complained, Defendants and their
23 agents have nonetheless failed to alter, modify, or improve their responses to
24 Plaintiffs.

25 69. Defendants have not followed LAUSD procedures or the minimum
26 procedures required by the Constitution and State law in response to
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1 complaints of harassment and discrimination based on actual or perceived
2 sexual orientation, sex, or sex stereotypes.

3 70. Defendants have abridged Plaintiffs' fundamental right of freedom of
4 association, which is protected by the First Amendment as incorporated by the
5 Due Process Clause of the Fourteenth Amendment. Defendants' actions, as
6 described in preceding paragraphs, result in discouraging new members from
7 joining the It's OK club or in inducing former members to withdraw in
8 violation of Plaintiff GSA Network's substantive due process rights. The
9 custom, policy, and/or tolerance of such custom or policy by Defendants that
10 results in intentional discrimination and humiliation chills new membership
11 into the It's OK club, which is a member of the Gay-Straight Alliance Network.

12 71. By failing to follow LAUSD procedures or the minimum procedures
13 required by the Constitution and State law, Defendants deprived these students
14 of their liberty interest in a safe, secure, and peaceful education in violation of
15 the Due Process Clause of the Fourteenth Amendment to the United States
16 Constitution and 42 U.S.C. § 1983. At all times, Defendants have been, are
17 presently, and will be acting under the color and authority of the laws of the
18 United States and the State of California.

19 72. Through the foregoing actions, failures to act, and deliberate
20 indifference, Defendants have interfered and continue to directly interfere with
21 LAUSD students' right to freedom of association and liberty interest in a safe,
22 secure, and peaceful education. Moreover, the acts of these school officials,
23 teachers, and employees create a risk of physical and emotional harm to
24 students who are perceived to be lesbian, gay, or bisexual and who do not
25 conform to sex stereotypes and further demonstrate their deliberate indifference
26 to the harassment and threats of harassment by rendering these students more
27 vulnerable to that danger. As a result, these students' substantive due process
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1 rights guaranteed by the Fourteenth Amendment to the United States
2 Constitution and 42 U.S.C. § 1983 have been and continue to be violated.

3 73. Plaintiffs therefore seek a judgment declaring that the intentional acts
4 and the acts of deliberate indifference described above perpetrated by the
5 LAUSD and the other Defendants are prohibited by the Due Process Clause of
6 the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §
7 1983, and seek injunctive relief set forth in the prayer for relief.

8 **FOURTH CLAIM FOR RELIEF**

9 (Procedural and Substantive Due Process Under California Constitution Art. I,
10 § 7)

11 [By Plaintiffs David Ramirez, Maria Gomez, GSA Network against LAUSD by
12 and through its Board of Education and all Individual Defendants in their
13 official capacities]

14 74. Plaintiffs reallege and replead all the allegations of the preceding
15 paragraphs of this Complaint and incorporate them herein by reference.

16 75. Students who are or are perceived to be lesbian, gay, or bisexual and do
17 not conform to sex stereotypes have a protected liberty interest in a safe and
18 secure high school education, conferred by the California State Constitution
19 and Education Code. Article I, Section 28(c) recognizes that students in
20 California schools have an “inalienable right to attend campuses which are
21 safe, secure and peaceful,” and Article 9, Section 1 recognizes that “[a] general
22 diffusion of knowledge and intelligence [is] essential to the preservation of the
23 rights and liberties of the people.” The California Education Code, Sections
24 48200 et seq., recognizes the importance of education to children through the
25 age of eighteen. Further, Education Code Sections 200 et seq. specifically
26 prohibit discrimination on the basis of actual or perceived sexual orientation or
27 sex, including gender identity, and California regulations require the LAUSD
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1 to implement policies to prevent and/or respond to acts of harassment and
2 discrimination in schools.

3 76. LAUSD and/or other Defendants have a custom, policy, and/or they
4 tolerate a custom or policy that results in intentional discrimination and/or
5 deliberate indifference to Plaintiffs' legal rights. Defendants have interfered
6 and are interfering with the liberty interests of students who are or are
7 perceived to be lesbian, gay, or bisexual and who do not conform to sex
8 stereotypes at Washington Prep. Students who are or are perceived to be
9 lesbian, gay, or bisexual and who do not conform to sex stereotypes at
10 Washington Prep have been deprived of their liberty interest in a safe, secure,
11 and peaceful education without due process of law. They suffer pervasive and
12 unwelcome harassment and discrimination at the hands of their peers and from
13 their teachers, security guards, and administrators at Washington Prep.
14 Defendants and other Washington Prep teachers and security guards not only
15 encourage but also perpetuate this discrimination by actively and intentionally
16 taking part in harassing students based on actual or perceived sexual
17 orientation, sex, and sex stereotypes and/or being deliberately indifferent to the
18 harassment and discrimination based on actual or perceived sexual orientation,
19 sex, and sex stereotypes occurring at Washington Prep.

20 77. LAUSD has no formal or informal policy that is reasonably calculated to
21 ensure that its schools are safe for students who are or are perceived to be
22 lesbian, gay, or bisexual and who do not conform to sex stereotypes.
23 Washington Prep teachers, counselors, security guards, and other staff are not
24 trained in how to assist student victims of harassment based on actual or
25 perceived sexual orientation, sex, or sex stereotypes at Washington Prep.
26 Further, LAUSD has no formal or informal policy that is reasonably calculated

1 to prevent or respond to such harassment; the absence of such a policy has the
2 effect of promoting and perpetuating the harassment.

3 78. Students who are or are perceived to be lesbian, gay, or bisexual and
4 who do not conform to sex stereotypes have repeatedly complained to
5 Washington Prep teachers, security guards, and administrators and to LAUSD
6 through its Educational Equity Compliance Office. Defendants and other
7 teachers, security guards, and administrators have ignored their complaints,
8 have taken no effective actions, and have not attempted to enact formal or
9 informal policies and procedures for how to prevent such harassment. Even
10 when harassment and complaints have increased and escalated after students
11 have complained, Defendants and their agents have nonetheless failed to alter,
12 modify, or improve their responses to Plaintiffs.

13 79. Defendants have not followed LAUSD procedures or the minimum
14 procedures required by the Constitution and State law in response to
15 complaints of harassment and discrimination based on actual or perceived
16 sexual orientation, sex, or sex stereotypes.

17 80. Defendants have abridged Plaintiffs' fundamental right of freedom of
18 association, which is protected by the Due Process Clause of the California
19 Constitution. Defendants' actions, as described in preceding paragraphs, result
20 in discouraging new members from joining the It's OK club or in inducing
21 former members to withdraw in violation of Plaintiff GSA Network's
22 substantive due process rights. The custom, policy, and/or tolerance of such
23 custom or policy by Defendants that results in intentional discrimination and
24 humiliation chills new membership into the It's OK club, which is a member of
25 the Gay-Straight Alliance Network.

26 81. By failing to follow LAUSD procedures or the minimum procedures
27 required by the Constitution and State law, Defendants deprived these students
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1 of their liberty interest in a safe, secure, and peaceful education in violation of
2 the Due Process Clause of the California Constitution. At all times, Defendants
3 have been, are presently, and will be acting under the color and authority of the
4 laws of the United States and the State of California.

5 82. Through the foregoing actions, failures to act, and deliberate
6 indifference, Defendants have interfered and continue to directly interfere with
7 LAUSD students' right to freedom of association and liberty interest in a safe,
8 secure, and peaceful education. Moreover, the acts of these school officials,
9 teachers, and employees create a risk of physical and emotional harm to
10 students who are perceived to be lesbian, gay, or bisexual and who do not
11 conform to sex stereotypes and further demonstrate their deliberate indifference
12 to the harassment and threats of harassment by rendering these students more
13 vulnerable to that danger. As a result, these students' substantive due process
14 rights guaranteed by the California Constitution have been and continue to be
15 violated.

16 83. Plaintiffs therefore seek a judgment declaring that the intentional acts
17 and the acts of deliberate indifference described above perpetrated by the
18 LAUSD and the other Defendants are prohibited by the Due Process Clause of
19 Article I, Section 7 of the California Constitution, and seek injunctive relief set
20 forth in the prayer for relief.

21 **FIFTH CLAIM FOR RELIEF**

22 (California Education Code §§ 200, 220, 233.5, 262.4; Student Discrimination)

23 [By all Plaintiffs against Defendants LAUSD by and through its Board of
24 Education and all Defendants in their individual capacities]

25 84. Plaintiffs reallege and replead all the allegations of the preceding
26 paragraphs of this Complaint and incorporate them herein by reference.

1 85. Plaintiffs have been taunted, harassed, and discriminated against by
2 students, teachers, security guards, and administrators at Washington Prep on
3 the basis of their actual or perceived sexual orientation, sex, and sex
4 stereotypes.

5 86. Defendant LAUSD has no adequate formal or informal policy to ensure
6 that Washington Prep is safe for students who, like Plaintiffs, are or are
7 perceived to be gay, lesbian, or bisexual and who do not conform to sex
8 stereotypes. When Plaintiffs have complained to Defendants and to Defendant
9 LAUSD through the Educational Equity Compliance Office, these Defendants
10 were deliberately indifferent to student and staff safety and none of them took
11 action that was reasonably calculated to stop the harassment and discrimination
12 Plaintiffs have been suffering.

13 87. Upon information and belief, Defendants have taken appropriate
14 remedial actions to address sexual harassment complaints and complaints based
15 on sex brought by students who are not, and are not perceived to be, lesbian,
16 gay, or bisexual.

17 88. As a result of Defendants' actions, failure to act, and/or deliberate
18 indifference, Plaintiffs have been damaged emotionally by the harassment and
19 discrimination described above.

20 89. Defendants' actions, failure to act, and/or deliberate indifference towards
21 the harassment and discrimination Plaintiffs have suffered has been carried out
22 because of Plaintiffs' actual or perceived sexual orientation, sex, or sex
23 stereotypes. Through these intentional acts and the acts of deliberate
24 indifference, Plaintiffs have been deprived of the equal rights and opportunities
25 in a public educational institution as guaranteed under the California Education
26 Code Sections 200, 220, 233.5, and 262.4. As a result, Plaintiffs have suffered
27 economic and non-economic damages in an amount to be determined at trial.
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SIXTH CLAIM FOR RELIEF

(California Civil Code §§ 51, 51.7, and 52(a), Unruh Civil Rights Act;
California Civil Code § 52.1(b) and California Penal Code § 422.6)

[By All Plaintiffs against Defendant LAUSD by and through its Board of
Education and all Defendants in their individual capacities]

90. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them herein by reference.

91. Defendants are engaged in the business of operating schools that are a business and public accommodations as defined by Civil Code Section 51.

92. Plaintiffs David Ramirez and Maria Gomez, and members of Plaintiff GSA Network, attend Washington Prep and have been repeatedly taunted, harassed, and discriminated against by teachers, security guards, administrators, and other students at Washington Prep on the basis of their actual or perceived sexual orientation and sex.

93. Defendant LAUSD has no adequate formal or informal policy to ensure that Washington Prep is safe for students who, like Plaintiffs, are or are perceived to be gay, lesbian, or bisexual and do not conform to sex stereotypes. When Plaintiffs have complained to Defendants and to Defendant LAUSD through the Educational Equity Compliance Office, these Defendants were deliberately indifferent to student and staff safety and none of them took action sufficient to stop the harassment and discrimination Plaintiffs have been suffering. Upon information and belief, Defendants have taken appropriate remedial actions to address sexual harassment complaints and complaints based on sex brought by students who are not, and are not perceived to be, lesbian, gay, or bisexual. All Defendants have interfered by threats, intimidation, and coercion with the exercise and enjoyment of all Plaintiffs' state and federal

1 Constitutional rights. Similarly, all Defendants have so acted with respect to
2 Plaintiffs' state statutory rights.

3 94. As a result of Defendants' actions, failure to act, and/or deliberate
4 indifference, Plaintiffs have been damaged emotionally by the harassment and
5 discrimination described above.

6 95. Defendants' actions, failure to act, and/or deliberate indifference towards
7 the harassment and discrimination Plaintiffs have suffered has been carried out
8 because of Plaintiffs' actual or perceived sexual orientation, sex, or sex
9 stereotypes. These actions, failures to act, and/or deliberate indifference denied
10 Plaintiffs the full and equal accommodations, advantages, facilities, privileges,
11 and services in a business and accommodation under Civil Code Sections 51,
12 51.7, and 52(a). In addition, all Defendants violated California Penal Code §
13 422.6, which is enforceable for Plaintiffs through California Civil Code Section
14 52.1, because all Defendants acted under color of state law and either injured or
15 threatened to injure Plaintiffs. This includes intimidation of, interference with,
16 and oppression of Plaintiffs based on sexual orientation, sex, or sex
17 stereotypes. As a result, Plaintiffs have suffered economic and non-economic
18 damages in an amount to be determined at trial.

19 SEVENTH CLAIM FOR RELIEF

20 (42 U.S.C. § 1983; Privacy Under U.S. Constitution Amends. I, IV, IX, and
21 XIV)

22 [Plaintiffs Susan Turner and Maria Gomez against Defendants LAUSD by and
23 through its Board of Education, Myrna Rivera, Jacqueline Henry, Dr. Kelvin
24 Land, and Vivian Laidley in their official capacities]

25 96. Plaintiffs reallege and replead all the allegations of the preceding
26 paragraphs of this Complaint and incorporate them herein by reference.

1 97. At all times, Defendants were, are presently, and will be acting under the
2 color and authority of the laws of the United States and the State of California
3 and pursuant to the policies or practices of Defendant LAUSD.

4 98. Plaintiffs seek a judgment declaring that the intentional acts described
5 above perpetrated by the Defendants are prohibited by the First, Fourth, Ninth,
6 and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §
7 1983 and seek the injunctive relief set forth in the prayer for relief.

8 EIGHTH CLAIM FOR RELIEF

9 (42 U.S.C. § 1983; Privacy Under U.S. Constitution Amends. I, IV, IX, and
10 XIV)

11 [Plaintiffs Susan Turner and Maria Gomez against Defendants LAUSD by and
12 through its Board of Education, Myrna Rivera, Jacqueline Henry, Dr. Kelvin
13 Land, and Vivian Laidley in their individual capacities]

14 99. Plaintiffs reallege and replead all the allegations of the preceding
15 paragraphs of this Complaint and incorporate them herein by reference.

16 100. At all times, Defendants were, are presently, and will be acting under the
17 color and authority of the laws of the United States and the State of California
18 and pursuant to the policies or practices of Defendant LAUSD.

19 101. Defendants' actions and/or deliberate indifference toward the harassment
20 and discrimination Plaintiffs suffered because of Plaintiffs' actual or perceived
21 sexual orientation and sex are prohibited by the Fourth Amendment to the
22 United States Constitution and 42 U.S.C. § 1983. Plaintiffs suffered economic
23 and non-economic damages as a result of Defendants' actions in an amount to
24 be determined at trial.

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NINTH CLAIM FOR RELIEF

(42 U.S.C. § 1983; U.S. Constitution Amend. I)

[By Plaintiffs Maria Gomez and Susan Turner against Defendant LAUSD by and through its Board of Education and Defendants Vivian Laidley and Herbert A. Jones in their official capacities]

102. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them herein by reference.

103. After Plaintiffs Maria Gomez and Susan Turner filed complaints with the LAUSD pursuant to the Uniform Complaint Procedures, which is protected First Amendment activity, Defendants Vivian Laidley and Herbert A. Jones took retaliatory action against Plaintiffs.

104. At all times, Defendants have been, are presently, and will be acting under the color and authority of the laws of the United States and the State of California.

105. Plaintiffs seek a judgment declaring that the retaliation described above perpetrated by the Defendants are prohibited by the First Amendment to the United States Constitution and 42 U.S.C. § 1983 and seek the injunctive relief set forth in the prayer for relief.

TENTH CLAIM FOR RELIEF

(42 U.S.C. § 1983; U.S. Constitution Amend. I)

[By Plaintiffs Maria Gomez and Susan Turner against Defendants Vivian Laidley and Herbert A. Jones in their individual capacities]

106. Plaintiffs reallege and replead all the allegations of the preceding paragraphs of this Complaint and incorporate them herein by reference.

107. After Plaintiffs Maria Gomez and Susan Turner filed complaints with the LAUSD pursuant to the Uniform Complaint Procedures, which is protected

1 First Amendment activity, Defendants Vivian Laidley and Herbert A. Jones
2 took retaliatory action against Plaintiffs.

3 108. At all times, Defendants have been, are presently, and will be acting
4 under the color and authority of the laws of the United States and the State of
5 California. As a result of Defendants' retaliation, Plaintiffs suffered economic
6 and non-economic damages in an amount to be determined at trial.

7 ELEVENTH CLAIM FOR RELIEF

8 (42 U.S.C. § 1983; Title IX, 20 U.S.C. §§ 1681-1688)

9 [All Plaintiffs against All Defendants in their official capacities]

10 109. Plaintiffs reallege and replead all the allegations of the preceding
11 paragraphs of this Complaint and incorporate them herein by reference.

12 110. Defendants' above-described conduct violated Plaintiffs' right to be free
13 from sexual harassment and/or sex discrimination by and/or within any
14 educational program or activity that receives federal financial assistance.

15 111. At all times, Defendants have been, are presently, and will be acting
16 under the color and authority of the laws of the United States and the State of
17 California. Plaintiffs seek a judgment declaring that the intentional acts and the
18 acts of deliberate indifference described above perpetrated by the Defendants
19 are prohibited by Title IX, 20 U.S.C. §§ 1681-1688 and seek the injunctive
20 relief set forth in the prayer for relief.

21 TWELFTH CLAIM FOR RELIEF

22 (42 U.S.C. § 1983; Title IX, 20 U.S.C. §§ 1681-1688)

23 [All Plaintiffs against Defendants Herbert A. Jones, Dr. Kelvin Land, Frank R.
24 Devereaux in their individual capacities]

25 112. Plaintiffs reallege and replead all the allegations of the preceding
26 paragraphs of this Complaint and incorporate them herein by reference.

1 113. Defendants' above-described conduct violated Plaintiffs' right to be free
2 from sexual harassment and/or sex discrimination, including discrimination
3 based on sex stereotyping, by and/or within any educational program or activity
4 that receives federal financial assistance.

5 114. At all times, Defendants have been, are presently, and will be acting
6 under the color and authority of the laws of the United States and the State of
7 California. As a result of this discrimination and harassment, Plaintiffs
8 suffered economic and non-economic damages in an amount to be determined
9 at trial.

10 **THIRTEENTH CLAIM FOR RELIEF**

11 (Equal Protection Under Cal. Const. art. I, § 7(a), (b); art. IV, § 16(a))

12 [By all Plaintiffs against all Defendants]

13 115. Plaintiffs reallege and replead all the allegations of the preceding
14 paragraphs of this Complaint and incorporate them herein by reference.

15 116. Students and staff who are or are perceived to be gay, lesbian, or
16 bisexual and who do not conform to sex stereotypes suffer pervasive and
17 unwelcome harassment and discrimination from their peers and from their
18 teachers, administrators, security guards, and other school staff at Washington
19 Prep. Defendants not only encourage but also perpetuate this discrimination by
20 actively and intentionally taking part in harassing students and staff based on
21 actual or perceived sexual orientation and sex and/or by being deliberately
22 indifferent to the harassment and discrimination based on actual or perceived
23 sexual orientation and sex occurring at Washington Prep.

24 117. Defendant LAUSD promotes and fosters this hostile environment.
25 LAUSD's formal and informal policies are not reasonably calculated to ensure
26 that its schools are safe for students and staff who are or are perceived to be
27 gay, lesbian, or bisexual and who do not conform to sex stereotypes.

1 Washington Prep teachers, counselors, security guards, administrators, and
2 other school staff are not trained in, or are their training is not reasonably
3 calculated to teach them, how to assist student and staff victims of harassment
4 based on sexual orientation, sex, and sex stereotypes at the school. Further,
5 LAUSD has no formal or informal policy that is reasonably calculated to
6 prevent or respond to such harassment; the absence of such a policy has the
7 effect of promoting and perpetuating harassment.

8 118. Students who are or are perceived to be lesbian, gay, or bisexual and
9 who do not conform to sex stereotypes have complained repeatedly to
10 Washington Prep teachers and administrators about the hostile climate for them
11 at Washington Prep. In addition, students and a counselor have filed multiple
12 formal complaints with Defendant LAUSD pursuant to the Uniform Complaint
13 Procedures. Defendants and other teachers and administrators have ignored the
14 complaints and/or have taken no effective actions to prevent harassment.

15 119. Upon information and belief, Defendants have taken appropriate
16 remedial actions to address sexual harassment complaints and complaints based
17 on sex brought by students who are not, and are not perceived to be, lesbian,
18 gay, or bisexual.

19 120. The intentional discrimination, hostile environment, and deliberate
20 indifference toward Washington Prep students and staff who are or are
21 perceived to be lesbian, gay, or bisexual causes substantial injury to Plaintiffs,
22 including GSA Network and its members, and violates the Equal Protection
23 Clauses of the California Constitution. At all times, Defendants have been, are
24 presently, and will be acting under the color and authority of the laws of the
25 United States and the State of California and pursuant to the policies or
26 practices of Defendant LAUSD. As a result of this discrimination and
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1 harassment, Plaintiffs suffered economic and non-economic damages in an
2 amount to be determined at trial.

3 121. Plaintiffs seek a judgment declaring that the intentional acts and the acts
4 of deliberate indifference described above perpetrated by the Defendants are
5 prohibited by the Equal Protection Clauses of the California Constitution and
6 seek the injunctive relief set forth in the prayer for relief.

7 **FOURTEENTH CLAIM FOR RELIEF**

8 (Privacy Under Cal. Const. art. I, § 1)

9 [Plaintiffs Susan Turner and Maria Gomez against Defendants LAUSD by and
10 through its Board of Education, Myrna Rivera, Jacqueline Henry, Dr. Kelvin
11 Land, and Vivian Laidley]

12 122. Plaintiffs reallege and replead all the allegations of the preceding
13 paragraphs of this Complaint and incorporate them herein by reference.

14 123. At all times, Defendants were, are presently, and will be acting under the
15 color and authority of the laws of the United States and the State of California
16 and pursuant to the policies or practices of Defendant LAUSD.

17 124. Plaintiffs seek a judgment declaring that the intentional acts described
18 above perpetrated by the Defendants are prohibited by Article I, Section I of
19 the California Constitution and seek the injunctive relief set forth in the prayer
20 for relief. In addition, Plaintiffs suffered economic and non-economic damages
21 as a result of Defendants' actions in an amount to be determined at trial.

22 **FIFTEENTH CLAIM FOR RELIEF**

23 (42 U.S.C. § 1983; U.S. Constitution Amend. I)

24 [All Plaintiffs against Defendants LAUSD by and through its Board of
25 Education, Myrna Rivera, Jacqueline Henry, Dr. Kelvin Land]

26 125. Plaintiffs reallege and replead all the allegations of the preceding
27 paragraphs of this Complaint and incorporate them herein by reference.

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1 126. Instruction to cease distribution of “gay-content material” violates
2 Plaintiffs’ rights as students and staff to receive, distribute, and express
3 information, free from viewpoint-based censorship, as protected by the First
4 Amendment to the United States Constitution.

5 127. At all times, Defendants were, are presently, and will be acting under the
6 color and authority of the laws of the United States and the State of California
7 and pursuant to the policies and practices of Defendant LAUSD.

8 FIFTEENTH CLAIM FOR RELIEF

9 (42 U.S.C. § 1983; U.S. Constitution Amend. I)

10 [All Plaintiffs against Defendants LAUSD by and through its Board of
11 Education, Myrna Rivera, Jacqueline Henry, Dr. Kelvin Land]

12 128. Plaintiffs reallege and replead all the allegations of the preceding
13 paragraphs of this Complaint and incorporate them herein by reference.

14 129. Instruction to cease distribution of “gay-content material” violates
15 Plaintiffs’ rights as students and staff to receive, distribute, and express
16 information, free from viewpoint-based censorship, as protected by Article I,
17 Section 2 of the California Constitution.

18 130. At all times, Defendants were, are presently, and will be acting under the
19 color and authority of the laws of the United States and the State of California
20 and pursuant to the policies and practices of Defendant LAUSD.

21 SIXTEENTH CLAIM FOR RELIEF

22 (California Government Code §§ 11135(a), 11139)

23 [All Plaintiffs against Defendants LAUSD by and through its Board of
24 Education, Herbert A. Jones, Ann Mayeda]

25 131. Plaintiffs reallege and replead all the allegations of the preceding
26 paragraphs of this Complaint and incorporate them herein by reference.

1 132. Defendants' above-described conduct violated Plaintiffs' right to be free
2 from sexual harassment and/or sex discrimination by and/or within any
3 educational program or activity that receives financial assistance from the
4 State.

5 133. At all times, Defendants have been, are presently, and will be acting
6 under the color and authority of the laws of the United States and the State of
7 California. Plaintiffs seek a judgment declaring that the intentional acts and the
8 acts of deliberate indifference described above perpetrated by the Defendants
9 are prohibited by California Government Code Sections 11135(a) and 11139
10 and seek the injunctive relief set forth in the prayer for relief.

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12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiffs pray for judgment as stated below:

- 14 1. Issue a judgment declaring that the acts of the Defendants
15 described herein violate the First, Fourth, Fifth, Ninth, and
16 Fourteenth Amendments to the Constitution of the United States;
17 Title IX of the Education Amendments of 1972, 20 U.S.C. §§
18 1681-1688; Article I, Sections 1 and 7(a), (b) and Article IV,
19 Section 16(a) of the California Constitution; California Education
20 Code Sections 200 et seq., Civil Code Sections 51 et seq.,
21 Government Code Sections 11135 and 11139, and California
22 Penal Code Section 422.6; and further that said constitutional and
23 statutory rights so violated are present rights that must
24 immediately be respected and protected.
- 25 2. Issue an injunction ordering Defendants to stop engaging in such
26 unconstitutional and unlawful acts, and to develop policies and
27 procedures for ending any such unconstitutional and unlawful acts

1 and the hostile and intolerant environment, including but not
2 limited to the following:

- 3 a. Require Defendants to implement mandatory training
4 programs for Washington Prep faculty, staff, and students
5 on issues relating to diversity, homophobia, and methods to
6 intervene to stop students from harassing other students who
7 are lesbian, gay, or bisexual, or who are perceived to be
8 lesbian, gay, or bisexual.
- 9 b. Require Defendants to adopt policies with specific
10 guidelines for instructing teachers, security guards, and
11 administrators about how to address complaints by students
12 who have been taunted, harassed, or discriminated against
13 because of their actual or perceived sexual orientation or
14 gender.
- 15 c. Require Defendants to conduct immediately assemblies for
16 all students addressing issues of diversity, homophobia, and
17 tolerance, wherein students are instructed about laws
18 prohibiting harassment and discrimination based on actual
19 or perceived sexual orientation or gender.
- 20 d. Require Defendants to assign a peer mediator and/or other
21 staff member to Washington Prep to provide active
22 monitoring for the school and to address immediately
23 instances of harassment and/or discrimination that arise at
24 the school.
- 25 e. Require Defendants to maintain statistical data concerning
26 each complaint of anti-gay harassment made by a student or
27 staff member, as well as the specific action LAUSD
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teachers, security guards, and/or administrators took to resolve that complaint.

f. Require Defendants to take no reprisal or retaliatory action against any Plaintiff or any administrator, teacher or staff member who speaks out in support of Plaintiffs.

3. For compensatory damages and consequential damages to be awarded to Plaintiffs according to proof at trial;

4. For exemplary and punitive damages to be awarded to Plaintiffs according to proof at trial;

5. For interest;

6. For costs of suit and attorneys' fees; and

7. For such other and further relief as the Court may deem just, proper, and appropriate.

DEMAND FOR JURY

Pursuant to Rule 38(b), Federal Rules of Civil Procedure, and Local Rule 38-1, Plaintiffs demand trial by jury for all the issues plead herein so triable.

Dated: October 28, 2004

By: _____
CATHERINE E. LHAMON
MARK D. ROSENBAUM
ACLU FOUNDATION OF SOUTHERN CALIFORNIA

CHRISTINE P. SUN
JAMES ESSEKS
ACLU NATIONAL LESBIAN AND GAY RIGHTS PROJECT

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