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6
7 Attorney for Plaintiff,
MOLLY ZYSMAN,
8 as Guardian Ad Litem for
J. Z.

9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11
12 J. Z., a minor, by and through his Guardian ad
13 Litem, MOLLY ZYSMAN,

No. _____

14 Plaintiff,

**COMPLAINT FOR DAMAGES,
DECLARATORY, AND INJUNCTIVE
RELIEF**

15 v.

JURY DEMAND

16
17 AMADOR COUNTY UNIFIED SCHOOL
DISTRICT, a political subdivision of the
18 State of California, RICHARD GLOCK,
ELIZABETH CHAPIN-PINOTTI, ALAN
19 VAN VELZEN, MARY WALSER, KARL
KNOBELAUCH, DAVID DUTRA, W.
20 PATRICK MILLER, TERRY PORRAY,
JANELLE REDKEY, WALLY UPPER, in
21 their individual capacities, and DOES 1-50
inclusive,

22 Defendants.
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INTRODUCTION

1
2 1. Amador County School and District officials have ignored and even fostered an
3 educational environment that is hostile to a Jewish student, J. Z. From the very beginning of his
4 tenure at high school, and within the first weeks of his Freshman year, the slur, "Burn Jew, burn"
5 materialized, etched on his locker face. Despite numerous complaints, the slur remained etched
6 there for over a year before it was finally removed. Thereafter, J. Z. became subjected to
7 increasingly severe and pervasive discrimination, harassment, and intimidation by other students,
8 including giving him the Nazi salute and calling him "stupid Jew!" at school, and during school
9 hours with impunity. J. Z. and his parents complained to the school's principal, then the
10 superintendent, and finally, formally to the district. All complaints were substantially ignored, and
11 what actions the district did take were plainly inadequate. In fact, the district rejected his formal
12 complaint and appeal without addressing its substance, based purportedly solely on J. Z.'s failure
13 to raise the issues within a purported twenty-day limitation period. The discrimination and
14 harassment J. Z. suffered became unbearable, and without the support or recourse from the school
15 and district that are constitutionally and statutorily charged with keeping him, J. Z. was forced to
16 drop out of the school and began independent study within the District. Ultimately, J. Z. returned
17 to the school but is still subjected to harassment. Most recently, the school chose to run a play
18 entitled, "Hitler Youth."

JURISDICTION AND VENUE

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21 2. This action arises under the Fourteenth Amendment to the United States
22 Constitution; 42 U.S.C. §§ 1983, 1985, 1986, 2000d; and Article I, section 31, of the California
23 Constitution. The Court has jurisdiction of the federal law claims under 28 U.S.C. §§ 1331
24 (federal question) and 1343(a) (redress deprivation of civil rights), and jurisdiction of the state
25 law claims under 28 U.S.C. § 1367. Declaratory relief is authorized by the Declaratory
26 Judgment Act, 28 U.S.C. §§ 2201-2202.

27 3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because a defendant
28 in the action resides in this district, and because a substantial part of the events or omissions

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1 giving rise to Plaintiff’s claims occurred or will occur in this district.

2 **PARTIES**

3 4. J. Z. is a sixteen year-old minor and appears in this action by and through his
4 guardian ad litem, his mother, Molly Zysman. J. Z. is, and at all relevant times was, of the
5 Jewish race, ethnicity, ancestry, and religion. J. Z. attended Amador High School (hereinafter
6 “Amador High”) at all relevant times unless otherwise mentioned.

7 5. Plaintiff, MOLLY ZYSMAN, brings this suit as Guardian Ad Litem for J. Z.

8 6. Defendant, AMADOR COUNTY UNIFIED SCHOOL DISTRICT (hereinafter
9 “District”), is, and at all times relevant herein was, a political subdivision of the State of
10 California with jurisdiction over public schools in Amador County. Specifically, it is and was a
11 public school district organized and operating under the laws of the State of California. The
12 District is responsible for the administration of educational services for all students enrolled in
13 its schools, including Amador High. The District has the ability, authority, and duty to
14 implement and enforce policies and procedures that prevent and stop discrimination and
15 harassment at its schools. Defendant, District, performed, participated in, aided and/or abetted in
16 some manner in the acts averred herein, proximately caused the damages averred below, and is
17 liable to J. Z. for the damages and other relief sought herein. On information and belief, Plaintiff
18 hereby alleges that the District is a recipient of federal financial assistance.

19 7. Defendant, RICHARD GLOCK (hereinafter “Glock”), is, and was at all relevant
20 times was, the Superintendent of the Amador County Unified School District and working in the
21 course and scope of his employment with and as an agent of the District. Defendant, Glock,
22 performed, participated in, aided and/or abetted in some manner the acts averred herein,
23 proximately caused the damages averred below, and is liable to J. Z. for the damages and other
24 relief sought herein. On information and belief, Defendant, Glock, is a citizen and resident of
25 California and Amador County.

26 8. Defendant, ELIZABETH CHAPIN-PINOTTI (hereinafter “Chapin-Pinotti”), is,
27 and was at all relevant times was, the Assistant Superintendent of the Amador County Unified
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1 School District and working in the course and scope of his employment with and as an agent of
2 the District. Defendant, Chapin-Pinotti, performed, participated in, aided and/or abetted in some
3 manner the acts averred herein, proximately caused the damages averred below, and is liable to
4 J. Z. for the damages and other relief sought herein. On information and belief, Defendant,
5 Chapin-Pinotti, is a citizen and resident of California and Amador County.

6 9. Defendant, ALAN VAN VELZEN (hereinafter “Van Velzen”), is, and was at all
7 relevant times was, the Principal of Amador High and working in the course and scope of his
8 employment with and as an agent of the District. Defendant, Van Velzen, performed,
9 participated in, aided and/or abetted in some manner the acts averred herein, proximately caused
10 the damages averred below, and is liable to J. Z. for the damages and other relief sought herein.
11 On information and belief, Defendant, Van Velzen is a citizen and resident of California and
12 Amador County.

13 10. Defendants, MARY WALSER, KARL KNOBELAUCH, DAVID DUTRA, W.
14 PATRICK MILLER, TERRY PORRAY, JANELLE REDKEY, WALLY UPPER, (hereafter
15 collective “Board Members”), were at all relevant times members of the Board of Trustees of
16 Amador County School District (hereafter “Board”) and were at all relevant times working in the
17 course and scope of their employment with and as agents of the District. Defendant, Board, at
18 the direction of the Board Members, performed, participated in, aided and/or abetted in some
19 manner the acts averred herein, proximately caused the damages averred below, and is liable to
20 J. Z. for the damages and other relief sought herein. On information and belief, each member of
21 the Board is a citizen and resident of California and Amador County.

22 11. Plaintiff is unaware of the true names and capacities of the Defendants sued
23 herein as DOES 1 through 50, inclusive, and therefore sue these Defendants by such fictitious
24 names. Plaintiff will amend this Complaint to allege the true names and capacities when
25 ascertained. Plaintiff is informed and believes and on that basis alleges that each of the
26 fictitiously named Defendants is liable in the manner set forth below for the acts, conduct and/or
27 omissions concerning the events and happenings herein referred to, which proximately caused
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1 the damages and injuries to plaintiff as alleged herein. Said fictitiously named "Doe" Defendants
2 are so identified pursuant to California Code of Civil Procedure § 474, California Government
3 Code § 950.4, Federal Rule of Civil Procedure 15(c)(1).

4 12. Defendants are entrusted with the responsibility for creating and maintaining an
5 educational environment that is physically and psychologically safe for students. In addition,
6 Defendants are entrusted with the responsibility for making and/or implementing policy with
7 respect to student harassment and discipline. Last, Defendants are entrusted with the
8 responsibility for ensuring that their subordinates, agents, and employees comply with anti-
9 discrimination laws and policies by taking prompt remedial action following acts of
10 inappropriate behavior, harassment, or discrimination against students, as well as affirmative
11 action to combat bias based on race or perceived race.

12 13. Plaintiff is informed and believes and thereon alleged that, at all times mentioned
13 in this complaint, each defendant was the agent of the others, was acting within the course and
14 scope of this agency, and all acts alleged to have been committed by any one of them was
15 committed on behalf of every other defendant.

16 14. At all times mentioned herein, all defendants were acting under color of law of
17 the State of California within the meaning of 42 U.S.C. § 1983, 1985, 1986, and 2000d.

18 **DEMAND FOR JURY TRIAL**

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20 15. Pursuant to Rule 38(b), Federal Rules of Civil Procedure, Plaintiff demands trial
21 by jury for all of the issues pled herein.

22
23 **ALLEGATIONS**

24 16. On or about June 5, 2009, Plaintiff timely complied with the California Tort
25 Claims Act, California Government Code § 910 et seq. A true and correct copy of Plaintiff's
26 claim, and the rejection of claim are attached as Exhibit "A" and incorporated herein by
27 reference.

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1 17. J. Z. is of Jewish race, ethnicity, ancestry, and religion, which fact was well
2 known to his fellow students at Amador High because, among other ways, J. Z. frequently wore
3 a Star of David, stated that he was Jewish on his "MySpace page," which was viewable by the
4 general public on the internet, and by which he communicated with dozens of co-students who
5 viewed his profile, including that he was Jewish. Furthermore, his cousin openly discussed J.
6 Z.'s race, ancestry and religion to her peers-in-common with J. Z.'s who attended Amador High.

7 18. On or about August 2007, at the beginning of J. Z.'s Freshman year at Amador
8 High, he discovered that his gym locker, in the boys locker room, had been defaced with the
9 discriminatory slur, "Burn, Jew, burn," deeply etched into its metal face. The act of etching a
10 racial, ethnic, and religious slur into J. Z.'s locker amounted to a hate crime in violation of,
11 among other things, California Penal Code sections 422.6 and 422.55.

12 19. Upon discovery, J. Z. immediately showed his Physical Education Coach, Scott
13 Hunkins (hereafter "Hunkins"), the racial slur etched in his locker. Hunkins asked J. Z. if the
14 etching offended him to which J. Z. replied, "Of course! I'm Jewish." Hunkins told J. Z. that
15 he would take care of it. Upon information and belief, Plaintiff thereupon alleges that Hunkins
16 took no action.

17 20. On or about September 2007, three weeks later, upon learning that the
18 discriminatory slur was etched on J. Z.'s locker, J. Z.'s parents spoke with Amador High Vice
19 Principal, Gary Pogue ("Pogue"). Pogue stated that Amador High would remove the slur. Upon
20 information and belief, Plaintiff thereupon alleges that Defendant Pogue immediately informed
21 Van Velzen of the facts relating to the slur on J. Z.'s locker.

22 21. On or about September 2007, J. Z. discovered that someone had urinated in his
23 gym locker. The same locker that still had etched on it, "Burn, Jew, burn." Claimant believes
24 and based on this belief alleges that this act would not have occurred had the slur been removed.
25 J. Z.'s father met with Vice Principal, Pogue, the next day to remind the school that the
26 discriminatory etching was still there and to demand investigation regarding this continuing
27 harassment.
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1 22. About a week later, on or about September 2007, J. Z.’s father left voice
2 messages with Principal, Van Velzen stating the slur was still on J. Z.’s locker and offering to do
3 whatever it takes to get rid of it. Van Velzen then promised to take care of it by the end of that
4 same day.

5 23. On or about October or November 2007, the slur still remained etched on J. Z.’s
6 locker. J. Z.’s mother left detailed voice messages for Van Velzen stating that the etching was
7 still on J. Z.’s locker. Van Velzen never returned her calls.

8 24. The slur etched into the locker-face remained during the summer break and into
9 the following school year. During the summer break, J. Z. was forced to endure the slur because
10 he was a member of the school’s summer football activities and was required to use the locker
11 room. During this entire time, J. Z. and other students saw and discussed the slur.

12 25. On or about September 2008, shortly after the start of J. Z.’s sophomore school
13 year, J. Z.’s father spoke to Van Velzen during Back to School Night. J. Z.’s father told him that
14 the slur was still etched into J. Z.’s locker and demanded an investigation. Van Velzen replied
15 that he thought it had been taken care of. However, he refused to investigate the incident. He
16 claimed that an investigation was impossible because there was no camera in the locker room. J.
17 Z.’s father tried to persuade Amador High to investigate and suggested several reasonable means
18 of investigating, including, talking to students. Van Velzen insisted that there would be no
19 investigation.

20 26. Days later, on or about September 2008, J. Z.’s parents again went to Van
21 Velzen’s office to complain that the slur remained etched in his locker. This time they refused to
22 leave until it was dealt with. J. Z.’s parents remained in Van Velzen’s office for six hours,
23 waiting and pressuring Van Velzen to take action to remove the ethnic slur from their son’s
24 locker. Van Velzen finally told the school’s custodian to remove the locker front, and it was
25 removed in minutes.

26 27. About a week later, on or about September 2008, J. Z. discovered that someone
27 had smashed cake in his gym locker and shoved-in soiled clothing through the holes. J. Z.
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1 informed his PE teacher.

2 28. District employees report that on or about September 2008, a second racial slur,
3 “Jew” appeared on J. Z.’s old football locker, written with a felt-tip marker. J. Z. cannot confirm
4 or deny the existence of this second slur because he had switched to a different locker by that
5 time. Upon information and belief, Plaintiff thereupon alleges that the District intentionally and
6 falsely claim that this second slur was the only slur that ever existed.

7 29. On or about November 2008, J. Z. again discovered that someone urinated in his
8 gym locker. J. Z.’s mother immediately went to the school to complain and spoke with the new
9 interim-vice-principal, Hunkins, who was the PE coach to whom J. Z. had originally complained
10 to about the slur on his locker. She demanded an investigation. Hunkins stated that
11 investigation was impossible.

12 30. On or about January 2009, a group of about 10 students began a campaign of anti-
13 Semitic harassment directed at J. Z. These students were emboldened to take these actions
14 because of Amador High’s inaction regarding the slur etched into the locker, and the attention
15 toward J. Z. from his co-students regarding the etching. Upon information and belief, Plaintiff
16 thereupon alleges that the harassment would not have occurred but for the failure of the District
17 to timely remove the ethnic slur from the locker. This harassment occurred numerous times from
18 January until J. Z. quit Amador High, on or about May 2009. This harassment occurred at all
19 times on school grounds and during school hours such as breaks, lunch recess, and even during
20 class. Such harassment consisted of incessant and continuous acts and statements every time J.
21 Z. encountered the students including highly offensive “jokes” to J. Z. such as, “How many Jews
22 can you fit in a VolksWagon? As many as you can burn and fit in the ashtray”; calling out to J.
23 Z., “Stupid Jew!”; and making the Nazi salute and shout “Heil Hitler!” when J. Z. passed them.

24 31. On or about February 2009, J. Z.’s father went in to speak to Principal, Van
25 Velzen, and told him that J. Z. was still being subjected to anti-Semitic discrimination, telling
26 him about the Jewish jokes and the Heil Hitler salutes. Van Velzen’s response was that he “can
27 only take care of one of your son’s crises at a time.” He furthermore attempted to transfer
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1 responsibility to J. Z. himself by asking J. Z.’s father, “why do you think your son is always the
2 brunt of harassment?” J. Z.’s father explained that the harassment was severe and pervasive and
3 that due to the administrations inaction, these kids felt he was a legitimate target.

4 32. By on or about February 2009, J. Z. spoke to the Principal, Van Velzen, at his
5 office to complain about the anti-Semitic discrimination and harassment to which he was being
6 subjected. J. Z. informed Van Velzen of the situation and repeated the statements and the joke
7 referred to above. J. Z. identified the group of students involved and told Van Velzen the first
8 name and class information of at least one of the participants, “Billy.” Van Velzen could have
9 identified these students based on J. Z.’s description.

10 33. Thereafter, upon information and belief, Plaintiff thereupon alleges that Van
11 Velzen did speak with Billy but after Billy purportedly denied involvement and thereupon, Van
12 Velzen dropped all efforts to investigate the ongoing harassment or discipline those involved.

13 34. Thereafter on or about February 2009, Billy and the other 10 students who were
14 originally involved became emboldened and increased their harassment toward J. Z. following
15 Van Velzen’s contact. Their increased harassment toward J. Z. was a direct and proximate result
16 of Van Velzen’s inadequate actions regarding the reported harassment.

17 35. Thereafter, on or about February 2009, J. Z.’s parents called Van Velzen several
18 times. They left voice-mails detailing their concerns over the continuing anti-Semitic
19 harassment. Van Velzen did not return their phone calls.

20 36. On or about February 2009, J. Z. was punched by a student on two different
21 occasions on different days, the same student during two separate incidents, during J. Z.’s PE
22 class at Amador High. Neither time did J. Z. use force to defend himself. First, a petty dispute
23 over the rules of a game resulted in a student punching him in the face which resulted in a
24 battery charge against that student who was over 18 years old. The second incident over his
25 father’s automobile accident. J. Z.’s parents contacted Van Velzen after each incident,
26 reminding him about the ongoing anti-Semitic harassment and the harassment regarding an auto-
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1 accident which was widespread at the time. After the second incident, Van Velzen replied in
2 words to the effect that, he had already reprimanded that student once regarding the first
3 incident, so there was nothing more he would do regarding the second.

4 37. Shortly thereafter, on or about February 2009, J. Z. was in Spanish class and a
5 student began making offensive comments about J. Z.’s father during class. J. Z. told him to
6 stop, but the other student persisted and aggressed toward J. Z., shoving a desk out of his way
7 and taking a menacing stance toward J. Z. The teacher removed both students from class and
8 gave them referrals. J. Z. went to the school’s office and complained about what had happened
9 to him. The vice principal at that time, Marianne Squire (hereinafter “Squire”), insisted it was a
10 “good” “healthy” “debate” regarding his father. Squire’s failure to discipline this student was
11 deliberate indifference and knowing acquiescence to the non-racially-motivated harassment
12 toward J. Z. to discriminate against him because he is Jewish including retaliation for J. Z.’s
13 prior complaints about the anti-Semitic harassment and discrimination.

14 38. On or about March 2009 through April 2009, J. Z.’s mother visited the Van
15 Velzen’s office at least three times regarding the ongoing harassment toward J. Z. regarding his
16 father and other matters. Each time she told Van Velzen of the continuing anti-Semitism to
17 which J. Z. was subjected by students during school hours, on school grounds. At about this
18 period J. Z.’s parents called Van Velzen at least six more times at regular intervals and left
19 voice-mails detailing their concern over the continuing discrimination and harassment. Van
20 Velzen failed to return any of their calls or take any further action.

21 39. On or about April 2009, J. Z.’s mother met with Rod Fisher (hereinafter
22 “Fisher”), the School Resources Officer who was officially connected with the local police
23 department. She informed Fisher about the slur etched into J. Z.’s locker and her belief that it
24 was a hate crime. She also informed him that J. Z. was being subjected to anti-Semitic
25 harassment and discrimination by other students. He told her that it was too late for the police to
26 take action or investigate her allegations and told her to bring it to the superintendent’s attention.
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1 40. On or about April 2009, J. Z.’s parents had a meeting with Superintendent, Glock,
 2 and told him everything to which J. Z. had been subjected to since his Freshman year, including
 3 the etching in J. Z.’s locker and the ongoing campaign of anti-Semitism from J. Z.’s classmates.
 4 Glock stated that he was appalled and would investigate and get back to them in a week. Glock
 5 did not contact them after a week or anytime thereafter. Upon information and belief, Glock
 6 took no action in response to this complaint in violation of the District’s policies and procedures.

7 41. On or about April 2009, J. Z. filed a formal complaint with the District that
 8 included the discrimination and harassment to which J. Z. was currently and continuously being
 9 subjected. By this time, all parties had actual knowledge of the incidents alleged herein. The
 10 District, by letter signed by Chapin-Pinotti, rejected J. Z.’s complaint. In her letter, Chapin-
 11 Pinotti merely falsely declared that J. Z.’s claims of discrimination and harassment were time-
 12 barred because they were purportedly not reported within twenty days. Her letter showed that
 13 the District completely failed to address the substantive issues of the hate crimes, discrimination
 14 and harassment. Upon information and belief, her letter was approved by the Board Members
 15 and the Board. The District’s failure to take further action was deliberate indifference and
 16 knowing acquiescence to the discrimination and harassment toward J. Z. to discriminate against
 17 him because he is Jewish including retaliation for J. Z.’s prior complaints about the anti-Semitic
 18 harassment and discrimination. Upon information and belief, the rejection on a procedural
 19 technicality, violated the District’s policy on dealing with allegations of discrimination and
 20 harassment.

21 42. On or about May 2009, J. Z. appealed the rejection of his complaint to the Board
 22 of Trustees. In a letter signed by Glock, the District denied the appeal, again purportedly based
 23 solely on its timeliness based on the fact that the appeal was not filed within five days of the
 24 response to her complaint. Upon information and belief, her letter was approved by the Board
 25 Members and the Board. His letter showed that the District again completely failed to address
 26 the substantive issues of the hate crimes, discrimination and harassment. The District’s failure to
 27 take further action was deliberate indifference and knowing acquiescence to the discrimination
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1 and harassment toward J. Z. to discriminate against him because he is Jewish including
2 retaliation for J. Z.'s prior complaints about the anti-Semitic harassment and discrimination.
3 Upon information and belief, the rejection on a procedural technicality violated the District's
4 policy on dealing with allegations of discrimination and harassment.

5 43. On or about May 2009, as a direct and proximate cause of the District's and its
6 agents' deliberate indifference and knowing acquiescence to the ongoing discrimination and
7 harassment against J. Z., J. Z. suffered depression, stress, tension and emotional devastation
8 caused by the student-on-student discrimination and harassment which became unbearable. He
9 was forced to drop out of the school and began independent study within the District.

10 44. Upon information and belief, Plaintiff thereupon alleges that shortly after J. Z. left
11 the school, a swastika was painted on one of the lockers on Amador High's campus and
12 remained there in plain sight for over two months before it was removed despite repeated
13 complaints by one of Amador High's teachers.

14 45. On or about June 16, 2009, a Concerned Citizen ("Concerned Citizen") of
15 Amador County called Glock to inquire about the Amador High's policy or procedure for
16 dealing with hate crimes and discrimination. He was not acquainted with Glock. Without asking
17 who this person was, Glock denied there was any anti-Semitic discrimination in the District.
18 Glock explained his pronouncement by stating the J. Z. family was lying and motivated by
19 vengeance against the District. Glock told him that he, Glock, had "damning information"
20 which he was willing to share because J. Z.'s family were making the incident public. Glock
21 told him that J. Z.'s old school had deemed J. Z. a "problem" and that he had a reputation for
22 going around school yelling "I'm a Jew," which Glock implied brought any problems on
23 himself. Glock stated that J. Z. had written "Burn Jew, burn" on his own locker, an accusation of
24 vandalism, that the slur was merely written in magic marker as opposed to being etched in, and
25 that it was only present on the locker from August 11, 2008 through September 4, 2008. He
26 further told this stranger that the J. Z.'s family are not part of the Jewish community. Glock
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1 failed to give any answer regarding the school’s policy and procedure for addressing hate crimes.

2 46. The next day, the same Concerned Citizen spoke with Nina Neville on the phone
3 but she also failed to respond to his questions about the school’s policy and procedure for
4 addressing hate crimes.

5 47. The District had a legal obligation under California law that “[a]ll students have
6 the inalienable right to attend classes on campuses which are safe, secure, and peaceful” and that
7 it has “an obligation to promote mutual respect and safe and harmonious relations that support
8 human dignity and equality.”

9 48. Upon information and belief, Plaintiff thereupon alleges that at all relevant times,
10 the District, the Board, and the Board Members had a duty to implement, maintain and enforce,
11 and did maintain and enforce, policies and procedures for preventing and mitigating hate crimes
12 and discrimination such as the slur on J. Z.’s locker and the anti-Semitic discrimination and
13 harassment. Upon information and belief, Plaintiff thereupon alleges that the these procedures
14 required, at minimum, among other things, that Amador High foster an environment of
15 acceptance toward Jewish people, that such a slur be removed as soon as reasonably possible,
16 that an adequate investigation be conducted to identify the person who etched the slur and
17 engaged in any anti-Semitic harassment and discrimination, that adequate follow-up be
18 performed to ensure compliance including removal of the slur, and that the Board be notified of
19 hate crimes and discrimination committed on Amador High campus.
20

21 49. Upon information and belief, Plaintiff thereupon alleges that teachers at Amador
22 High do not receive any training and/or education about dealing with discrimination or
23 harassment based on race or perceived race.

24 50. At all relevant times, Glock, Chapin-Pinotti, Van Velzen had a duty to, but failed
25 to follow the District’s policies and procedures regarding hate crimes and discrimination because
26 of their deliberate indifference and knowing acquiescence to the discrimination and harassment
27 toward J. Z. to discriminate against him because he is Jewish including retaliation for J. Z.’s
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1 prior complaints about the anti-Semitic harassment and discrimination.

2 51. Upon information and belief, Plaintiff thereupon alleges that at all relevant times
3 the individual members of the Board, Board Members, had actual knowledge of the slur on the
4 locker and the other discrimination and harassment toward J. Z. but failed and continued to fail
5 to implement, maintain or enforce the policies and procedures, in dereliction of their duty. The
6 individual members failed to do this because of their deliberate indifference and knowing
7 acquiescence to the discrimination and harassment toward J. Z. to discriminate against him
8 because he is Jewish including retaliation for J. Z.'s prior complaints about the anti-Semitic
9 harassment and discrimination.

10 52. On or about July 2009, J. Z. and his parents filed a formal complaint to the
11 District regarding the June 16, 2009, phone call between Glock and the Concerned Citizen. The
12 District used a private investigator to investigate the facts. The District purportedly determined
13 that Glock had not done the acts alleged in the complaint. Upon information and belief, Plaintiff
14 thereupon alleges that the District's conclusions from the investigation were intentionally false
15 and incomplete, and so written in order to cover-up evidence of Glock's discriminatory animus
16 toward J. Z.

17 53. On or about October 2009, Amador High performed a school play, "Hitler
18 Youth." The play and its particular performance was objectively offensive to Jewish people,
19 even above what was required by the script. The District, its Board and its agents including Van
20 Velzen and Glock, facilitated, participated in, intentionally encouraged and condoned the
21 performance of "Hitler Youth." Furthermore, these Defendants were deliberately indifferent and
22 knowingly acquiesced to the students' performance of this play and the students' individual
23 performances.

24 54. As of the date of this complaint, J. Z. has returned to Amador High but continues
25 to suffer racial and non-racial discrimination and harassment from other students. On or about
26 November 2, 2009, J. Z. discovered a swastika carved in his school desk. On or about
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1 November 2009, upon information and belief, Plaintiff thereupon alleges that a teacher stated
 2 loudly during a class so that other students overheard, words to the effect that “teachers will lose
 3 their jobs because of J. Z.’s lawsuit,” and then turned to the class and announced words to the
 4 effect that “Do you like your football team? You will lose your football team because of J. Z.’s
 5 lawsuit.” On or about November 16, 2009, during math class at Amador High, several students
 6 confronted J. Z. that the football team was and would continue to suffer because of J. Z.’s
 7 lawsuit. The teacher overheard these comments but failed to take adequate action to prevent the
 8 increasing confrontation. J. Z. finally demanded the teacher put an end to the harassment. In
 9 response, the teacher excused J. Z. from class, thereby accusing him as being the cause of the
 10 disruption. J. Z. was excused for the day and when he left, the school cited him for allegedly
 11 “screeching” his tires in the parking lot and revoked his parking privilege for three days. When
 12 J. Z.’s parents attempted to bring the matters to Van Velzen’s attention, Van Velzen brought up
 13 an incorrect, unrelated, and then-unmentioned complaint about J. Z.’s discipline. Defendants,
 14 District and Van Velzen, encouraged Condoned, and were deliberately indifferent and
 15 knowingly acquiesced to the this discrimination and harassment toward J. Z. because he is
 16 Jewish and in order to retaliate against J. Z. for opposing the unlawful conduct toward him
 17 because he is Jewish. He suffers retaliation, discrimination, and harassment on a daily basis
 18 which directly and proximately caused J. Z. to suffer continuing educational detriment,
 19 depression, anxiety, stress, tension and emotional devastation. J. Z. again fears he may be forced
 20 to drop out of Amador High and began independent study within the District. J.Z. and his
 21 parents have since filed further informal and formal complaints pursuant to the District’s
 22 procedure regarding the matters subsequent to prior complaints.

23 **FIRST CLAIM FOR RELIEF**
 24 **VIOLATION OF 42 U.S.C. 2000D BASED ON RACE OR PERCEIVED RACE**
 25 **(Against Defendant Amador County Unified School District)**

26 55. Plaintiff incorporates by reference and realleges paragraphs 1 to 54 of this
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1 complaint.

2 56. Defendant, District, is the recipient of federal financial assistance, and is thus
3 covered by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (hereafter "Title VI").
4 Title VI and its implementing regulations prohibit recipients of federal monies from
5 discriminating on the basis of, *inter alia*, race, color, or national origin.

6 57. Defendant has discriminated against J. Z. in the educational activities and
7 programs of Amador High on the basis of race and perceived race in violation of Title VI.

8 58. In engaging in and performing the acts, omissions, and conduct alleged herein,
9 officials of Defendant, Amador County Unified School District, who at a minimum had authority
10 to address the alleged harassment, discrimination, and retaliation alleged herein, and to institute
11 corrective measures on behalf of Defendant, Amador County Unified School District, including
12 but not limited to, Hunkins and Defendants, Richard Glock, Elizabeth Chapin-Pinotti, Alan Van
13 Velzen, Mary Walser, Karl Knoblauch, David Dutra, W. Patrick Miller, Terry Porray, Janelle
14 Redkey, Wally Upper, and DOES 1-50 inclusive, had actual knowledge of the harassment,
15 discrimination, and retaliation alleged herein but failed to adequately respond; and indeed were
16 deliberately indifferent to the harassment, discrimination, and retaliation. Furthermore, said
17 harassment, discrimination, and retaliation was at the direction of and with the consent,
18 encouragement, knowledge, and ratification of Defendant, District, and was within its control
19 and scope of duty.

20 59. Said acts, omissions, and conduct alleged herein and deliberate indifference
21 constituted harassment, discrimination, and retaliation on account of his race or perceived race
22 and furthermore caused J. Z. to undergo discrimination and harassment and/or made him liable
23 or vulnerable to the same by students and teachers under Defendant's direct control and
24 disciplinary authority as alleged above. Said retaliation was furthermore directed toward him for
25 opposing the unlawful conduct toward him. Said discrimination, harassment, and retaliation was
26 pervasive, severe, and objectively offensive and created a hostile environment based on race or
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1 perceived race that denied J. Z. of equal access to, excluded from participation in, denied the
2 befits of, and subjected to discrimination in, education as described in Title VI, including but not
3 limited to, failure to provide a reasonably safe environment and J. Z.’s necessity to withdraw
4 from Amador High.

5 60. Moreover, the responses of Defendant, District, to the discrimination, harassment,
6 and retaliation alleged herein was clearly unreasonable in light of the known circumstances.

7 61. As an actual, direct, proximate and legal result of the wrongful conduct of
8 Defendants, and each of them, alleged herein, J. Z. incurred, and is entitled to recover, general
9 and special damages, including but not limited to: J. Z.: (a) suffered and incurred severe physical
10 injuries, severe emotional injuries and distress, medical expenses, and educational detriment; and
11 (b) will suffer and incur future continuing physical injuries, emotional distress, and medical
12 expenses all to his damage.

13 62. In acting as is alleged in this complaint, Defendant acted knowingly, willfully,
14 and maliciously, and with reckless and callous disregard for Plaintiff’s federally protected rights.

15 63. J. Z.’s mother submitted a complaint to the district demanding adequate response
16 to harassment against J. Z. and later an appeal. The District rejected both and continues to deny
17 any failure on its part. The District continues to fail to investigate the identity of the students
18 involved in anti-Semitic harassment. Furthermore, the District has failed and continues to fail to
19 implement, maintain, and enforce policies and/or procedures to deal with discrimination,
20 harassment, and retaliation based on race or perceived race and retaliation for opposing the
21 unlawful conduct toward J. Z. which it knows or should know to be clearly necessary in light of
22 the unlawful conduct toward J. Z. Prompt judicial action is necessary to protect J. Z. from
23 further discrimination, harassment, and retaliation.
24

25 64. Defendant’s actions and policies were not and are currently not adequate for
26 ensuring that the school is physically and emotionally safe for Jewish students and others who
27 are “different” than the “normal” allowed by staff, nor are they adequate to protect against
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1 retaliation for opposing unlawful conduct. Defendant’s actions and policies were not and are
2 currently not adequate to protect J. Z. from retaliation from students and District employees for
3 opposing the unlawful conduct toward him.

4 65. Unless enjoined by this Court, Defendant will continue to violate Title VI.
5 Accordingly, Plaintiff seeks a judgment declaring that Defendant’s failure to take prompt,
6 appropriate corrective action is prohibited by Title VI, Plaintiff seeks the injunctive relief set
7 forth in the prayer for relief, and Plaintiff requests that the Court condition the District’s future
8 receipt of federal funds upon entry of a judicially-supervised consent decree ensuring that the
9 District complies with its obligations under Title VI.

10 66. Plaintiff is entitled to recover attorneys’ fees from Defendant, District fees
11 pursuant to Title VI and 42 U.S.C. § 1988.

12 Wherefore, Plaintiff prays for judgment as herein after set forth.

13 **SECOND CLAIM FOR RELIEF**

14 **VIOLATION OF CIVIL RIGHTS, 42 U.S.C. 1983, BASED ON 2000D CLAIM BASED**
15 **ON RACE OR PERCEIVED RACE**

16 **(Against Richard Glock, Elizabeth Chapin-Pinotti, Alan Van Velzen, Mary Walser, Karl**
17 **Knoblauch, David Dutra, W. Patrick Miller, Terry Porray, Janelle Redkey, Wally Upper,**
18 **and DOES 1-50 inclusive, all in their individual capacities.)**

19 67. Plaintiff incorporates by reference and realleges paragraphs 1 to 66 of this
20 complaint.

21 68. Defendants, Richard Glock, Elizabeth Chapin-Pinotti, Alan Van Velzen, Mary
22 Walser, Karl Knoblauch, David Dutra, W. Patrick Miller, Terry Porray, Janelle Redkey, Wally
23 Upper, and DOES 1-50 inclusive have discriminated against J. Z. in the educational activities
24 and programs of Amador High on the basis of race and perceived race in violation of Title VI.
25 Furthermore, they have retaliated against him for opposing this unlawful conduct toward him.

26 69. Defendants, performed the acts, omissions, and conduct alleged herein under
27 color of state law.
28

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1 70. Defendants had actual knowledge of the harassment, discrimination, and
 2 retaliation alleged herein but failed to adequately respond; and indeed were deliberately
 3 indifferent to the harassment, discrimination, and retaliation. Furthermore, said harassment,
 4 discrimination, and retaliation was at the direction of and with the consent, encouragement,
 5 knowledge, and ratification of Defendants, and it was within their control and scope of duty to
 6 control such harassment, discrimination, and retaliation.

7 71. Defendants’ acts, omissions, and conduct alleged herein constituted harassment,
 8 discrimination, and retaliation on account of J. Z.’s race or perceived race and caused J. Z. to
 9 undergo harassment, discrimination, and retaliation and/or made him liable or vulnerable to the
 10 same by students and District agents under Defendants’ direct control and disciplinary authority
 11 as alleged above. Furthermore, said retaliation was against J. Z. for opposing the unlawful
 12 conduct toward him. Said harassment, discrimination, and retaliation was pervasive, severe, and
 13 objectively offensive and created a hostile environment based on race or perceived race that
 14 denied J. Z. of equal access to, excluded from participation in, denied the benefits of, and subjected
 15 to discrimination in, education as described in Title VI, including but not limited to, failure to
 16 provide a reasonably safe environment, caused educational detriment including but not limited to
 17 J. Z.’s necessity to withdraw from Amador High.

18 72. Moreover, the responses of Defendants, and each of them, to the harassment,
 19 discrimination, and retaliation alleged herein was clearly unreasonable in light of the known
 20 circumstances.

21 73. As an actual, direct, proximate and legal result of the wrongful conduct of
 22 Defendants, and each of them, alleged herein, J. Z. incurred, and is entitled to recover, general
 23 and special damages, including but not limited to: J. Z.: (a) suffered and incurred severe physical
 24 injuries, severe emotional injuries and distress, medical expenses, and educational detriment; and
 25 (b) will suffer and incur future continuing physical injuries, emotional distress, and medical
 26 expenses all to his damage.
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1 74. In acting as is alleged herein, defendants acted knowingly, willfully, and
2 maliciously, and with reckless and callous disregard for Plaintiff's federally protected rights.

3 75. Unless enjoined by this Court, Defendants will continue to violate Title VI.

4 76. Plaintiff seeks a judgment declaring that Defendants' intentional acts, failure to
5 act, and/or the acts of deliberate indifference described above regarding the harassment, hostility,
6 discrimination, and retaliation J. Z. has suffered because of his race or perceived race are
7 prohibited by the Title VI, and furthermore retaliation against J. Z. for opposing said unlawful
8 conduct toward him. Plaintiff seeks the injunctive relief set forth in the prayer for relief.

9
10 77. Plaintiff is entitled to recover attorneys' fees pursuant to 42 U.S.C. §§ 1983 and
11 1988.

12 Wherefore, Plaintiff prays for judgment as herein after set forth.

13 **THIRD CLAIM FOR RELIEF**

14 **VIOLATION OF CIVIL RIGHTS, 42 U.S.C. 1983, EQUAL PROTECTION UNDER THE**
15 **FOURTEENTH AMENDMENT**

16 **(Against Richard Glock, Elizabeth Chapin-Pinotti, Alan Van Velzen, Mary Walser, Karl**
17 **Knoblauch, David Dutra, W. Patrick Miller, Terry Porray, Janelle Redkey, Wally Upper,**
18 **and DOES 1-50 inclusive, all in their individual capacities.)**

19 78. Plaintiff incorporates by reference and realleges paragraphs 1 to 77 of this
20 complaint.

21 79. Defendants, Richard Glock, Elizabeth Chapin-Pinotti, Alan Van Velzen, Mary
22 Walser, Karl Knoblauch, David Dutra, W. Patrick Miller, Terry Porray, Janelle Redkey, Wally
23 Upper, and DOES 2-50 inclusive, discriminated and retaliated against J. Z. in the educational
24 activities and programs of Amador High on the basis of race or perceived race in violation of the
25 Fourteenth amendment.

26 80. Defendants had a duty to provide and ensure an educational environment for J. Z.
27 free of discrimination, intimidation harassment, and retaliation, and to enforce the rules,
28 regulations, and laws necessary to protect him from acts of the same.

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1 81. Defendants, Richard Glock, Elizabeth Chapin-Pinotti, Alan Van Velzen, Mary
 2 Walser, Karl Knoblauch, David Dutra, W. Patrick Miller, Terry Porray, Janelle Redkey, Wally
 3 Upper, and DOES 1-50 inclusive, performed the acts, omissions, and conduct under color of
 4 state law; had actual knowledge of the harassment, discrimination, and retaliation alleged herein
 5 but failed to adequately respond; and indeed were deliberately indifferent to this harassment,
 6 discrimination, and retaliation. Furthermore, said harassment, discrimination, and retaliation
 7 was at the direction of and with the consent, encouragement, knowledge, and ratification of
 8 Defendants and was within their control and scope of duty.

9 82. Said acts, omissions, and conduct constituted harassment, discrimination, and
 10 retaliation on account of J. Z.’s race or perceived race and caused J. Z. to undergo harassment,
 11 discrimination, and retaliation and/or made him liable or vulnerable to the same by students and
 12 District agents under Defendants’ direct control and disciplinary authority as alleged above.
 13 Furthermore, said retaliation was motivated against J. Z. for opposing the same unlawful conduct
 14 toward him. Said harassment, discrimination, and retaliation was pervasive, severe, and
 15 objectively offensive and created a hostile environment based on race or perceived race that
 16 denied J. Z. of equal access to, excluded from participation in, denied the benefits of, and subjected
 17 to discrimination in, education provided by the District.

18 83. Defendants promoted and fostered this hostile environment. Defendants’ actions
 19 and practices are not adequate for ensuring that Amador High is physically and emotionally safe
 20 for Jewish students staff, nor are they adequate to protect against retaliation for opposing
 21 unlawful conduct. Defendants’ actions and inactions constituted and promoted hostility and
 22 harassment, discrimination, and retaliation based on race or perceived race. Furthermore,
 23 Defendants’ actions and inactions constituted and promoted retaliation against J. Z. for opposing
 24 the unlawful conduct toward him. Defendants’ actions and inactions prevented J. Z. from
 25 enjoying a safe and secure educational environment and educational benefits and opportunities
 26 provided by the District.
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1 84. As an actual, direct, proximate and legal result of the wrongful conduct of
2 Defendants, and each of them, alleged herein, J. Z. incurred, and is entitled to recover, general
3 and special damages, including but not limited to: J. Z.: (a) suffered and incurred severe physical
4 injuries, severe emotional injuries and distress, medical expenses, and educational detriment; and
5 (b) will suffer and incur future continuing physical injuries, emotional distress, and medical
6 expenses all to his damage.

7 85. In acting as is alleged herein, Defendants acted knowingly, willfully, and
8 maliciously, and with reckless and callous disregard for Plaintiff's protected rights, federally and
9 otherwise.

10 86. Unless enjoined by this Court, Defendants will continue to violate the Fourteenth
11 Amendment.

12 87. Plaintiff seeks a judgment declaring that Defendants' intentional acts, failure to
13 act, and/or the acts of deliberate indifference described above regarding the harassment, hostility,
14 retaliation, and discrimination J. Z. has suffered because of his race or perceived race are
15 prohibited by the Equal Protection Clause of the Fourteenth Amendment, as are the acts of
16 retaliation against J. Z. for opposing the unlawful conduct toward him. Plaintiff seeks the
17 injunctive relief set forth in the prayer for relief.

18 88. Plaintiff is entitled to recover attorneys' fees pursuant to 42 U.S.C. §§ 1983 and
19 1988.

20 Wherefore, Plaintiff prays for judgment as herein after set forth.

21 **FOURTH CLAIM FOR RELIEF**

22 **EQUAL PROTECTION, CAL. CONST. ART. 1 §§ 7(A), (B); ART. IV, § 16(A)**
23 **(Against Defendant Amador County Unified School District; and against Richard Glock,**
24 **Elizabeth Chapin-Pinotti, Alan Van Velzen, Mary Walser, Karl Knoblauch, David Dutra,**
25 **W. Patrick Miller, Terry Porray, Janelle Redkey, Wally Upper, and DOES 1-50 inclusive,**
26 **all in their individual capacities.)**

27 89. Plaintiff incorporates by reference and realleges paragraphs 1 to 88 of this
28

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1 complaint.

2 90. Defendants, Richard Glock, Elizabeth Chapin-Pinotti, Alan Van Velzen, Mary
3 Walser, Karl Knoblauch, David Dutra, W. Patrick Miller, Terry Porray, Janelle Redkey, Wally
4 Upper, and DOES 1-50 inclusive, had a duty to provide and ensure an educational environment
5 for J. Z., free of intimidation and discriminatory animus, including retaliation, and to enforce the
6 rules, regulations and laws necessary to protect them from acts of harassment, discrimination,
7 and retaliation.

8 91. In engaging in and performing the acts, omissions, and conduct alleged herein,
9 Defendants, Richard Glock, Elizabeth Chapin-Pinotti, Alan Van Velzen, Mary Walser, Karl
10 Knoblauch, David Dutra, W. Patrick Miller, Terry Porray, Janelle Redkey, Wally Upper, and
11 DOES 2-50 inclusive, had actual knowledge of the harassment, discrimination, and retaliation
12 alleged herein but failed to adequately respond; and indeed were deliberately indifferent to the
13 harassment, discrimination, and retaliation. Furthermore, said harassment, discrimination, and
14 retaliation was at the direction of and with the consent, encouragement, knowledge, and
15 ratification of Defendants, and was within its control and scope of duty. Said acts, omissions,
16 and conduct under color of state law discriminated against J. Z. on the basis of his race or
17 perceived race in the educational activities and programs in the District in violation of the equal
18 protection provisions of the California Constitution.

19 92. Said acts, omissions, and conduct constituted harassment, discrimination, and
20 retaliation on account of J. Z.'s race or perceived race and caused J. Z. to undergo harassment,
21 discrimination, and retaliation and/or made him liable or vulnerable to the same by students and
22 District agents under Defendants' direct control and disciplinary authority as alleged above.
23 Said harassment, discrimination, and retaliation was pervasive, severe, and objectively offensive
24 and created a hostile environment based on race or perceived race that denied J. Z. of equal
25 access to, excluded from participation in, denied the benefits of, and subjected to discrimination in
26 educational benefits and opportunities provided by the District, including but not limited to,
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1 Defendants' failure to provide a reasonably safe environment resulting in J. Z.'s necessity to
2 withdraw from Amador High.

3 93. As an actual, direct, proximate and legal result of the wrongful conduct of
4 Defendants, and each of them, alleged herein, J. Z. incurred, and is entitled to recover, general
5 and special damages, including but not limited to: J. Z.: (a) suffered and incurred severe physical
6 injuries, severe emotional injuries and distress, medical expenses, and educational detriment; and
7 (b) will suffer and incur future continuing physical injuries, emotional distress, and medical
8 expenses all to his damage.

9 94. In acting as is alleged herein, defendants acted knowingly, willfully, and
10 maliciously, and with reckless and callous disregard for Plaintiff's protected rights.

11 95. Unless enjoined by this Court, Defendants will continue to violate J. Z.'s
12 constitutional rights.

13 96. Plaintiff seeks a judgment declaring that Defendants' intentional acts, failure to
14 act, and/or acts of deliberate indifference described above regarding the harassment,
15 discrimination, and retaliation J. Z. has suffered because of his race or perceived race are
16 prohibited by the equal protection provisions of the California constitution, as are is the
17 retaliation against J. Z. for opposing the same unlawful conduct toward him. J. Z. seeks the
18 injunctive relief set forth in the prayer for relief.

19 97. Plaintiff seeks attorneys fees pursuant to Code of Civil Procedure Section 1021.5.

20 Wherefore, Plaintiff prays for judgment as herein after set forth.
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22
23

24 **FIFTH CLAIM FOR RELIEF**

25 **CALIFORNIA EDUCATION CODE § 220 ET SEQ.; STUDENT DISCRIMINATION**
26 **(Against Defendant Amador County Unified School District)**

27 98. Plaintiff incorporates by reference and realleges paragraphs 1 to 97 of this
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1 complaint.

2 99. Defendant has discriminated against J. Z. in the educational activities and
3 programs at Amador High on the basis of race or perceived race in violation of California
4 Education Code Section 220 et seq. Defendant has also retaliated against J. Z. for reporting
5 discrimination and harassment based on race or perceived race in violation of California
6 Education Code section 220 et seq.

7 100. J. Z. has been subjected to severe, pervasive, and objectively offensive
8 harassment, discrimination, retaliation, and hostility based on his race and perceived race, and
9 retaliation for opposing the unlawful conduct toward him, by students and District employees
10 under Defendant’s direct control and disciplinary authority.

11 101. In engaging in and performing the acts, omissions, and conduct alleged herein,
12 officials of Defendant, Amador County Unified School District, who at a minimum had authority
13 to address the alleged harassment and discrimination alleged herein, and to institute corrective
14 measures on behalf of Defendant, Amador County Unified School District, including but not
15 limited to, Defendants, Richard Glock, Elizabeth Chapin-Pinotti, Alan Van Velzen, Mary
16 Walser, Karl Knoblauch, David Dutra, W. Patrick Miller, Terry Porray, Janelle Redkey, Wally
17 Upper, and DOES 1-50 inclusive, had actual knowledge of the harassment, discrimination, and
18 retaliation alleged herein but failed to adequately respond; and indeed were deliberately
19 indifferent to the harassment and discrimination. Furthermore, said harassment, discrimination,
20 and retaliation was at the direction of and with the consent, encouragement, knowledge, and
21 ratification of Defendant, District and its agents, and was within their, and each of their, control
22 and scope of duty.

23 102. Said deliberate indifference constituted harassment, discrimination, and
24 retaliation on account of his race or perceived race and furthermore motivated against J. Z. for
25 opposing the unlawful conduct toward him, and caused J. Z. to undergo harassment,
26 discrimination, and retaliation and/or made him liable or vulnerable to the same by students and
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1 District agents under Defendant’s and its agents’, and each of their, direct control and
2 disciplinary authority as alleged above. Said harassment, discrimination, and retaliation was
3 pervasive, severe, and objectively offensive and created a hostile environment based on race or
4 perceived race that denied J. Z. of equal access to, excluded from participation in, denied the
5 benefits of, and subjected to discrimination in, education provided by the District.

6 103. Defendant promoted and fostered this hostile environment. Defendant’s actions
7 and policies are not adequate for ensuring that the school is physically and emotionally safe for
8 Jewish students nor to protect against unlawful retaliation for opposing unlawful conduct.
9 Defendant’s actions and inactions promoted hostility and discrimination, and retaliation based on
10 race or perceived race and retaliation for opposing the unlawful conduct toward him.
11 Defendant’s actions and inactions prevented J. Z. from enjoying a safe and secure educational
12 environment and educational benefits and opportunities provided by the District.

13 104. Unless enjoined by this Court, Defendant will continue to violate California
14 Education Code section 220 et seq.

15 105. Plaintiff seeks a judgment declaring that Defendant’s failure to take immediate
16 and appropriate corrective actions, as well as Defendant’s intentional acts, failure to act, and/or
17 acts of deliberate indifference violate California Education Code section 220 et seq. Plaintiff
18 seeks the injunctive relief set forth in the prayer for relief.

19 106. Plaintiff seeks attorneys fees pursuant to Code of Civil Procedure section 1021.5.

20 WHEREFORE, Plaintiff prays judgment against defendants, and each of them as follows:

21 AS TO THE FIRST CLAIM FOR RELIEF:

- 22 1. For a judicially-supervised consent decree ensuring that the District complies with
- 23 its obligations under Title VI;
- 24 2. For reasonable attorneys’ fees pursuant to 42 U.S.C. § 1988;
- 25
- 26

27 AS TO THE SECOND AND THIRD CLAIMS FOR RELIEF:

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3. For reasonable attorneys’ fees pursuant to 42 U.S.C. §§ 1983 and 1988;

AS TO THE FIRST, SECOND, AND THIRD CLAIMS FOR RELIEF:

4. For compensatory damages, in an amount to be determined according to proof at trial;

5. For special damages, in an amount to be determined according to proof at trial;

6. For punitive damages, in an amount to be determined according to proof at trial;

AS TO THE FOURTH AND FIFTH CLAIMS FOR RELIEF:

7. For reasonable attorneys’ fees pursuant to California Code of Civil Procedure 1021.5;

AS TO ALL CLAIMS FOR RELIEF:

8. For a declaration that Defendants have violated the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution; Title VI; the equal protection provisions of the California constitution; California Education Code § 220 et seq.; and further that said constitutional and statutory rights so violated are present rights that must immediately be respected and protected;

9. For a preliminary and permanent injunction prohibiting Defendants from continuing to discriminate by failing to respond reasonably to complaints of harassment and hostility based on race or perceived race; and ordering Defendants to take measures to address the hostile environment to which J. Z. has been subjected, including but not limited to the following:

- a. Require Defendants to adopt a formal process for the filing and investigation of a complaint when a student is subjected to harassment or discrimination based on race or perceived race, publish this process, and notify all students and parents about this process.
- b. Require Defendants to designate and train specific school staff to be point

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1 persons for students to talk to regarding harassment or discrimination
2 because of race or perceived race. Identify an administrator at the high
3 school who will be available for questions if any employee seeks guidance
4 on how to create and maintain a safe learning environment for students
5 who are experiencing discrimination and/or harassment.

6 c. Require Defendants to immediately provide training for all students at
7 Amador High to educate students about issues of diversity, harassment,
8 and discrimination, wherein students are instructed about laws prohibiting
9 harassment and discrimination based on race or perceived race.

10 d. Require Defendants to immediately provide training for all staff and
11 administrators at Amador High to educate staff about harassment and
12 discrimination based on race and perceived race; to education staff about
13 the affirmative responsibility of schools to maintain a safe and non-
14 discriminatory learning environment; and to provide school staff with
15 specific intervention tools that can be used to help prevent and stop
16 harassment and discrimination against students on the basis of race and
17 perceived race.

18 e. Require Defendants to survey students at Amador High during this school
19 year to assess the level of bias based on race and perceived race in the
20 school and take appropriate steps in light of the results to address bias.

21
22 10. For a preliminary and permanent injunction prohibiting Defendants from
23 continuing to retaliate against J. Z. for opposing the unlawful discrimination and
24 harassment including by failing to respond reasonably to complaints of
25 harassment and hostility based on race or perceived race; and ordering
26 Defendants to take measures to address the hostile retaliatory environment to
27 which J. Z. has been subjected, including but not limited to the following:
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- a. Require Defendants to adopt a formal process for the filing and investigation of a complaint when a student is subjected to retaliation for opposing harassment or discrimination based on race or perceived race, publish this process, and notify all students and parents about this process.
- b. Require Defendants to designate and train specific school staff to be point persons for students to talk to regarding retaliation for opposing harassment or discrimination because of race or perceived race. Identify an administrator at the high school who will be available for questions if any employee seeks guidance on how to create and maintain a safe learning environment for students who are experiencing retaliation for opposing discrimination and/or harassment.
- c. Require Defendants to immediately provide training for all students at Amador High to educate students about issues of retaliation for opposing unlawful harassment, retaliation, and discrimination, wherein students are instructed about laws prohibiting retaliation for opposing harassment and discrimination based on race or perceived race.
- d. Require Defendants to immediately provide training for all staff and administrators at Amador High to educate staff about retaliation for opposing harassment, retaliation, and discrimination based on race and perceived race; to education staff about the affirmative responsibility of schools to maintain a safe and learning environment, free of retaliation for opposing unlawful harassment, retaliation and discrimination; and to provide school staff with specific intervention tools that can be used to help prevent and stop retaliation for opposing harassment, retaliation and discrimination against students on the basis of race and perceived race.
- e. Require Defendants to survey students and District agents, including

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teachers and faculty, at Amador High during this school year to assess the level of retaliatory animus toward J. Z. for opposing unlawful actions toward him based on his race and perceived race in the school and take appropriate steps in light of the results to address this retaliatory animus.

- 11. For costs of suit incurred in this action; and
- 12. For such other and further relief as the Court deems proper.

BEYER, PONGRATZ AND ROSEN

Dated: November 16, 2009

By: /s/ ETAN E. ROSEN
Attorney for Plaintiff

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