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12 **UNITED STATES DISTRICT COURT**
13
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 ELIZABETH SINCLAIR, CHARLOTTE
16 KLARKE, and FELLOWSHIP OF
17 CHRISTIAN ATHLETES, an Oklahoma
corporation,

18 Plaintiffs,

19 vs.

20
21 SAN JOSE UNIFIED SCHOOL DISTRICT
22 BOARD OF EDUCATION, in its official
and personal capacity, NANCY ALBARRÁN, in her official
23 and personal capacity, HERBERT ESPIRITU,
in his official and personal capacity, PETER
24 GLASSER, in his official and personal
capacity.

25 Defendants.
26

CASE NO. 5:20-cv-2798

JUDGE: Hon. Lucy H. Koh

**SECOND AMENDED COMPLAINT FOR
PRELIMINARY INJUNCTION,
PERMANENT INJUNCTION,
DECLARATORY RELIEF AND
DAMAGES**

DEMAND FOR JURY TRIAL

1 Plaintiffs ELIZABETH SINCLAIR, CHARLOTTE KLARKE, and FELLOWSHIP OF
2 CHRISTIAN ATHLETES (“FCA”) (collectively, “Plaintiffs”) allege the following against
3 Defendants NANCY ALBARRÁN, in her official and personal capacity, HERBERT ESPIRITU,
4 in his official and personal capacity, and PETER GLASSER, in his official and personal capacity,
5 and in support thereof, state as follows:

6 **PRELIMINARY STATEMENT**¹

7 1. Plaintiffs bring this action due to the unlawful and unconstitutional religious
8 discrimination by Defendants, who are officials and employees of the San Jose Unified School
9 District (“the District”) who have violated and continue to violate the Equal Access Act (“EAA”),
10 First Amendment, and Fourteenth Amendment. Acting on behalf of the District, Defendants have
11 revoked recognition of student groups affiliated with FCA, taking away benefits previously enjoyed
12 by the students in those groups and that continue to be enjoyed by other noncurriculum-related
13 student groups, and have knowingly allowed and facilitated harassment of such students, including
14 Elizabeth Sinclair and Charlotte Klarke and students in student groups affiliated with FCA, by
15 District faculty and other students because of their religious beliefs and speech.

16 ***FCA is an international religious organization that promotes integrity, serving,***
17 ***teamwork, and excellence.***

18 2. FCA is an international religious ministry with recognized student groups on
19 hundreds of public university and high school campuses across the country. Students have
20 organized student FCA chapters at three high school campuses within the District for many years
21 without incident: Pioneer High School (“Pioneer”), Willow Glen High School (“Willow Glen”),
22 and Leland High School (“Leland”) (collectively, the “Student FCA Chapters”).

23
24 ¹ This Second Amended Complaint is being filed pursuant to the Court’s Order Granting in Part and
25 Denying in Part Motion to Dismiss, dated January 28, 2021, (“Order”) and conforms to that ruling.
26 But Plaintiffs are not waiving claims that were made in the First Amended Complaint, including those
27 that were passed on or were ruled upon by the Court in its Order. Plaintiffs understand the Court’s
28 order to dismiss claims of a facial challenge to the District’s nondiscrimination policy, but may repeat
such pleadings for preservation of error. If there is an appeal of a final judgment, Plaintiffs may
appeal the dismissal of claims made in the First Amended Complaint at that time. Pursuant to the
Order a redline comparing this version to the First Amended Complaint is attached as Exhibit 1.

1 3. FCA and the Student FCA Chapters invite all students to attend and participate in
2 their meetings. FCA and the Student FCA Chapters adhere to and express a core set of religious
3 beliefs. These beliefs are found primarily in the FCA Statement of Faith. The Student FCA
4 Chapters do not require members to agree with FCA's core religious beliefs, but FCA's student
5 leaders serve as representatives of FCA and its beliefs and message and therefore must affirm their
6 agreement with these core religious beliefs and try to live consistent with those beliefs.

7 4. FCA has a close relationship with the students who lead its student groups. FCA's
8 student leaders seek to promote their shared religious beliefs and message on their campuses. FCA
9 provides training for its student leaders and considers these student leaders to be its representatives.
10 This relationship is formalized through the student leaders' application to FCA and FCA's approval
11 of the application.

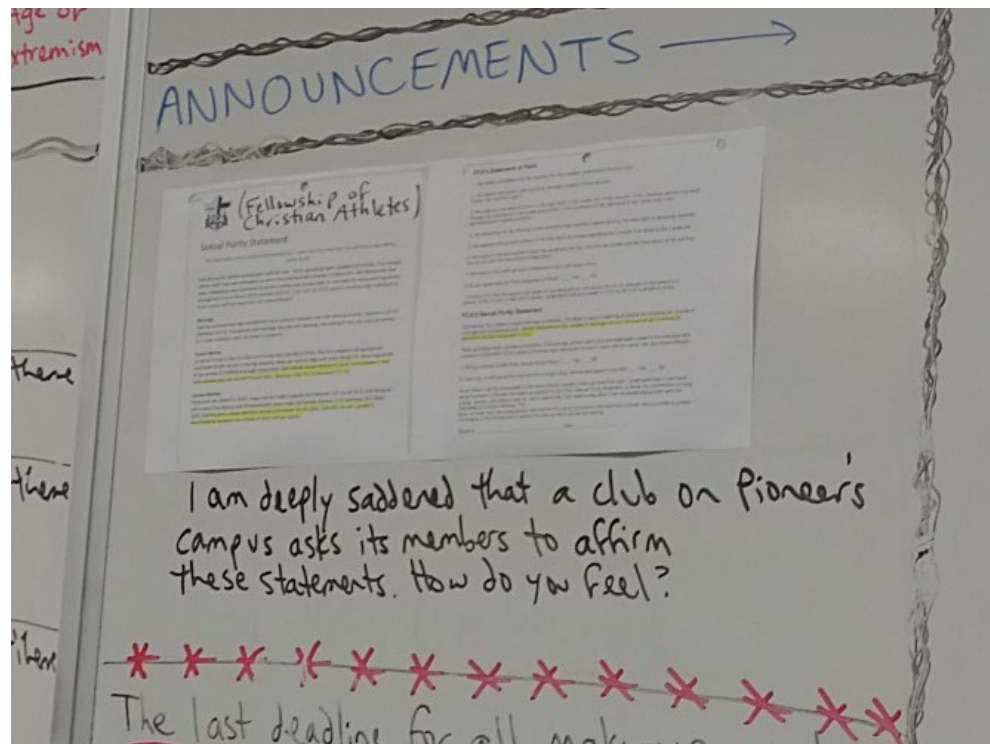
12 ***The District has revoked recognition of the Student FCA Chapters because of***
13 ***their religious beliefs and speech.***

14 5. Defendants have recognized and continue to recognize numerous noncurriculum-
15 related student groups in its secondary schools, each of which triggers the District's duty to comply
16 with the EAA. For example, in the 2019-2020 academic year, over 50 noncurriculum-related
17 student groups were recognized at Pioneer High School alone including, but not limited to, the
18 following: Bachelor Nation; Black Student Union; Chess Club; Communism Club; Dream Club;
19 Dungeons and Dragons Club; Frisbee Club; Gender Sexuality Association; Harry Potter Club;
20 Interact Club; K-Pop Club; Key Club; Latinx Club; Multicultural Club; Pacific Islander Club;
21 Persian Club; PHS Ski and Ride; Ping Pong Club; Politics Club; Shrek Club; Simply Cards; Tetris
22 Club; and The Satanic Temple Club. (See ¶ 56 for a full list of noncurriculum-related student
23 groups at Pioneer during the 2019-20 academic year.) The Key Club, Interact Club, and Chess Club
24 are classic examples of student groups that automatically trigger the EAA's requirement that a
25 religious student group be recognized. A true and correct copy of the list of student organizations
26 at Pioneer, Leland, and Willow Glen for the 2019-20 academic year is attached as Exhibit A.

27 6. Defendants and other District officials continue to grant official recognition to
28 noncurriculum-related student groups. For example, in the 2020-21 academic year, Pioneer

1 continues to recognize the Interact Club and Key Club. Defendants continue to deny the Pioneer
 2 Student FCA Chapter the official recognition that it enjoyed before Defendants revoked it on or
 3 around May 2, 2019.

4 7. On April 23, 2019, Peter Glasser, a teacher at Pioneer, posted a copy of an FCA
 5 Statement of Faith and a statement of FCA's Sexual Purity Statement, previously used by a different
 6 FCA region, in his classroom with the caption, "I am deeply saddened that a club on Pioneer's
 7 campus asks its members to affirm these statements. How do you feel?" Mr. Glasser's display was
 8 intended to and had the effect of disparaging the religious beliefs of FCA and students who share
 9 those beliefs. Student leaders of the Pioneer Student FCA Chapter, including Ms. Klarke, were
 10 students in Mr. Glasser's classes at this time. Ms. Sinclair, as a student at Pioneer, was also exposed
 11 to Mr. Glasser's disparaging message.



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Mr. Glasser's Whiteboard

26 8. Despite complaints by leaders of the Pioneer Student FCA Chapter to Mr. Glasser
 27 and to Pioneer Principal Herb Espiritu, Mr. Glasser's display remained posted in his classroom for
 28 several days.

1 9. District officials, including Defendants, not only allowed Mr. Glasser to leave this
2 hostile message posted, but adopted and expanded upon Mr. Glasser's statements. Despite the
3 Student FCA Chapters having existed on campus for years without incident, no discriminatory
4 statements or acts were attributed to any member of a Student FCA Chapter. Nonetheless, on May
5 2, 2019, less than two weeks after Mr. Glasser posted his statements, Principal Espiritu informed
6 Ms. Klarke and Ms. Sinclair, as student leaders of the Pioneer Student FCA Chapter, that their
7 student group would no longer be recognized on campus. Defendants Espiritu, Albarrán, and
8 Glasser were each involved in the decision to derecognize the Student FCA Chapters in the District.

9 10. Soon afterward, District officials informed FCA student leaders at Leland and Willow
10 Glen that schools in the District would no longer recognize the Student FCA Chapters. Officials at
11 Willow Glen informed FCA student leaders that the school would recognize their religious student
12 club on the condition they disassociated with FCA.

13 11. Defendants have violated and continue to violate the EAA and the First and
14 Fourteenth Amendments through their revocation and continued denial of club recognition and its
15 associated benefits to the Student FCA Chapters and their leaders and members because Defendants
16 disfavor the religious beliefs and speech that the Student FCA Chapters and FCA share.

17 ***The District has allowed and facilitated harassment of FCA students by faculty***
18 ***and other students.***

19 12. In addition, Defendants have targeted FCA students, including Ms. Klarke and Ms.
20 Sinclair, for negative treatment due to their disfavor of FCA's religious beliefs and speech. During
21 the 2018-19 and 2019-20 academic years, Ms. Klarke and Ms. Sinclair were co-presidents of the
22 Pioneer Student FCA Chapter. Defendants have adopted a practice of allowing and facilitating
23 harassment of students affiliated with FCA. Shortly after Defendants revoked recognition of the
24 Student FCA Chapters, Mr. Glasser and Principal Espiritu discussed strategies specifically intended
25 to prevent the Student FCA Chapters from existing in the District and deny them their rights to
26 meet. District officials, including Principal Espiritu and Mr. Glasser, have also coordinated with
27 students who oppose FCA's religious beliefs in an effort to prevent the Student FCA Chapters from
28 meeting at all on campus.

1 13. Defendants' coordination with students includes working with The Satanic Temple
2 Club, knowing that it was founded by students who are opposed to the Student FCA Chapters'
3 continued presence on campus for the purpose of targeting FCA students because of their religious
4 beliefs and viewpoints. Mr. Glasser also coordinated with The Satanic Temple Club students about
5 their intention to harass the Student FCA Chapter.

6 14. The Satanic Temple Club formed for the first time at Pioneer at the beginning of the
7 2019-2020 academic year. Defendants granted The Satanic Temple Club's application for
8 recognition while denying the Pioneer Student FCA Chapter's application for recognition. The
9 Satanic Temple Club's application for recognition as an official student organization at Pioneer
10 indicates that a primary purpose of the club is to "protest." Similarly, correspondence shows that
11 Defendants knew the purpose of the club was to target FCA students. The Satanic Temple Club
12 asked for permission to gather at the same time as the Pioneer Student FCA Chapter, which the
13 Defendants granted.

14 15. Shortly before the first meeting of the Pioneer Student FCA Chapter of the 2019-20
15 academic year, students affiliated with The Satanic Temple Club publicly announced their intent to
16 demonstrate immediately outside of the Pioneer Student FCA Chapter meetings because of their
17 disagreement with FCA's religious beliefs. Despite requests from the FCA students and their
18 parents to Principal Espiritu to move the demonstration to another location that would not subject
19 FCA students to direct harassment, the District did not do so.

20 16. Defendants allowed these demonstrations to occur immediately outside, and at the
21 same time as, the FCA students' meetings despite Defendants' and other District officials' and
22 employees' expectation that the demonstrations would intimidate and harass the FCA students. Mr.
23 Glasser acknowledged that the situation violated the FCA students' "sense of humanity and safety."
24 Principal Espiritu acknowledged that singling out the FCA students because of their religious
25 beliefs could subject the FCA students to undue harassment. Nonetheless, Defendants made no
26 effort to protect the FCA students from harassment, for example, by requiring the students to keep
27 a certain distance from those walking into the Pioneer Student FCA Chapter's meetings or requiring
28 the protesting students to gather elsewhere or at a different time.

1 17. The protesting students' first organized attempt to harass and intimidate FCA
2 students occurred on October 23, when they gathered outside of the Pioneer Student FCA Chapter
3 meeting with signs disparaging the FCA students' religious beliefs, including "HATRED IS NOT
4 A RELIGIOUS BELIEF." The protesting students yelled at the FCA students, including Ms.
5 Klarke and Ms. Sinclair, as they entered their meeting and remained directly outside their meeting
6 space during their meeting. Despite the FCA students' reasonable requests, Defendants not only
7 refused to take any action to mitigate the harassment, but in some instances Principal Espiritu
8 threatened to penalize the FCA students if they did not acquiesce in the protesting students'
9 harassment.

10 18. On November 6, 2019, student reporters for the school newspaper entered the Pioneer
11 Student FCA Chapter meeting and took hundreds of pictures of the approximately 20 students
12 attending the meeting. When the FCA students complained to Principal Espiritu, he did nothing to
13 stop or report this harassing and intimidating behavior, despite having a duty to do so. Instead,
14 Principal Espiritu told the FCA student leaders, including Ms. Klarke and Ms. Sinclair, that if they
15 did not allow pictures to be taken during their meetings, they would not be allowed to have their
16 individual pictures in the school yearbook.

17 19. On December 4, 2019, faculty at Pioneer encouraged the protesting students to harass
18 the students who were attending the FCA meeting by entering the room during their meeting.
19 School Resource Officer Rick Granado intervened to keep the protesting students from further
20 harassing the FCA students at their meeting. On information and belief, neither the faculty nor
21 students involved have been disciplined for their harassment of the FCA students before, during,
22 and after their meetings. Instead, the harassment of FCA students continued unabated during FCA's
23 meetings.

24 20. Discrimination against FCA and its students by the District and Defendants
25 demonstrates animus towards its religious message. Not only have Defendants refused to recognize
26 student groups affiliated with FCA, they have openly disparaged FCA's religious beliefs and have
27 allowed and encouraged other students to harass and intimidate FCA students immediately outside
28

1 of FCA meetings, in violation of its own written policy (but in accord with accepted District
2 practices).

3 21. Defendants' actions evince their open hostility toward FCA and its religious values.
4 In June 2019, FCA procured counsel to send correspondence to Principal Espiritu and Willow Glen
5 Principal Tina Vanlaarhoven explaining the EAA and First Amendment requirements that official
6 recognition be restored to the Student FCA Chapters and addressing the District's discriminatory
7 treatment of the Student FCA Chapters. After receiving no response, the counsel sent similar
8 correspondence to Superintendent Albarrán in July 2019. In January 2020, Superintendent
9 Albarrán was specifically informed of the District's discriminatory acts and harassment against the
10 Student FCA Chapters and approved the District's continued discrimination and harassment. This
11 hostility has led the District and Defendants to target FCA students and student leaders illegally
12 and unconstitutionally for discrimination and harassment.

13 22. Defendants have continued and will continue to deny recognition to Student FCA
14 Chapters and target FCA's student representatives for discrimination and harassment without
15 intervention from the Court. The Court should order the Defendants to restore full recognition to
16 the Student FCA Chapters as required by the EAA and the United States Constitution, and to protect
17 the FCA students from further harassment and intimidation at the hands of District officials,
18 employees, and students, in accordance with the District's policies against harassment and bullying.

19 **INTRADISTRICT ASSIGNMENT**

20 23. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) in that a substantial
21 part of the events or omissions giving rise to the claims alleged in this pleading occurred in the
22 Northern District of California. Pursuant to Local Rule 3-2, all civil actions which arise in the
23 counties of Santa Clara, Santa Cruz, San Benito or Monterey shall be assigned to the San Jose
24 Division.

25 **PARTIES AND VENUE**

26 24. Elizabeth Sinclair is a former student in the District who was a student leader and co-
27 President in the Pioneer Student FCA Chapter. Ms. Sinclair attended Pioneer from 2016-2020. Ms.
28 Sinclair is domiciled in California.

1 25. Charlotte Klarke is a former student in the District who was a student leader and co-
2 President in the Pioneer Student FCA Chapter. Ms. Klarke attended Pioneer from 2016-2020. Ms.
3 Klarke is domiciled in California.

4 26. Elizabeth Sinclair and Charlotte Klarke bring this suit against all Defendants in their
5 personal capacities.

6 27. Fellowship of Christian Athletes is a religious nonprofit corporation incorporated in
7 Oklahoma and whose principal place of business is in Missouri. FCA brings this suit on behalf of
8 itself and its student leaders in the District. FCA has been recognized by the Internal Revenue
9 Service as an organization described in section 501(c)(3) of the Internal Revenue Code. FCA brings
10 this suit against all Defendants in their official capacities only.

11 28. FCA has a continued presence in the District through student leaders at the Pioneer
12 Student FCA Chapter. These student leaders serve as volunteer representatives of FCA. The
13 student leaders of the Pioneer Student FCA Chapter who currently attend and are subject to
14 Defendants' ongoing harassment and discrimination due to their religious beliefs and message
15 include B.W., a minor, and L.W., a minor (collectively, "the Student Representatives"). The
16 Student Representatives are current students at Pioneer who serve as leaders of the Pioneer Student
17 FCA Chapter to advance FCA's religious beliefs, speech, and values among the Pioneer Student
18 Community. At all times during the events alleged herein, the Student Representatives were either
19 members or leaders of the Pioneer FCA Student Chapter and subject to the harassment and
20 discrimination alleged herein.

21 29. Nancy Albarrán is domiciled in California and is the District's Superintendent and
22 chief executive officer. Ms. Albarrán is sued in her official and personal capacity.

23 30. Herbert Espiritu is domiciled in California and the principal of Pioneer High School.
24 Mr. Espiritu is sued in his official and personal capacity.

25 31. Peter Glasser is domiciled in California and a teacher at Pioneer High School. He is
26 sued in his official and personal capacity.

27 32. All Defendants are persons acting under the color of state law. 42 U.S.C. § 1983.
28

1 33. Defendants are subject to suits for prospective relief in their official capacity under
2 the *Ex parte Young* doctrine. 209 U.S. 123 (1908).

3 34. Venue is proper in this court because a substantial part of the events or omissions
4 giving rise to Plaintiffs' claims occurred within the jurisdiction of this Court. 28 U.S.C. § 1391.
5 Additionally, all Defendants are domiciled or located within the Northern District of California. *Id.*

6 **JURISDICTION**

7 35. This court has jurisdiction over this matter because Plaintiffs assert causes of action,
8 including civil rights causes of action, arising under federal statutes and the U.S. Constitution. 28
9 U.S.C. §§ 1331, 1343.

10 36. This court has authority to issue the declaratory and injunctive relief sought herein.
11 28 U.S.C. §§ 2201 and 2202.

12 **FACTUAL BACKGROUND**

13 ***FCA is an international religious organization.***

14 37. FCA was founded in 1954 as an international Christian ministry with the mission “to
15 lead every coach and athlete into a growing relationship with Jesus Christ and His Church.”
16 <https://www.fca.org/aboutus/who-we-are/vision-mission>.

17 38. FCA has recognized student organizations on college, high school, and middle school
18 campuses across the country. Today, FCA has over 14,000 active chapters in 84 countries. Many
19 of these are on public university and high school campuses across the United States.

20 39. FCA's organizational values include “demonstrat[ing] steadfast commitment to Jesus
21 Christ and His Word through Integrity, Serving, Teamwork, and Excellence.”
22 <https://www.fca.org/aboutus/who-we-are/vision-mission>.

23 40. FCA imposes no membership requirements on students who participate in affiliated
24 student groups and welcomes all students to participate. Similarly, all students enrolled in the
25 Pioneer High School are eligible for membership in the Pioneer Student FCA Chapter. During the
26 events alleged herein, all Student FCA Chapters had no requirements for membership beyond that
27 a student be enrolled in the respective school. With respect to student group leadership, FCA and
28 Student FCA Chapters require only that student leaders agree and live in accordance with their core

1 religious beliefs and religious standards as expressed in the Student Leadership Application. The
2 student leadership application used for all Student FCA Chapters in the District during the events
3 alleged herein is attached as Exhibit B. Any student who applies for a leadership position will be
4 considered for leadership. These leadership restrictions are necessary to ensure that the content of
5 FCA's religious message is maintained at Student FCA Chapter meetings and that FCA's religious
6 mission is carried out by the student leaders at Student FCA Chapter meetings.

7 41. FCA's religious mission is signified by its Mission Statement: "To lead every coach
8 and athlete into a growing relationship with Jesus Christ and His Church." See Exhibit C at 32
9 (2019-20 Huddle Playbook); *see also* Exhibit D at 39 (2020-21 Huddle Playbook).

10 42. FCA is a Christian community led by those who serve FCA's mission as its
11 representatives, including the Student Representatives and other volunteer leaders. FCA's mission
12 and the association of FCA's representatives, including the Student Representatives, are an exercise
13 and expression of FCA's Christian beliefs. *See* FCA Community Statement, Exh. C at 7; Exh. D at
14 38.

15 43. As part of its ministry, FCA performs charitable works nationwide. For example,
16 FCA and volunteers invested \$250,000 to develop a community center in inner-city Baltimore to
17 provide disadvantaged students a safe place to gather, study, and play.
18 [https://www.wmar2news.com/news/region/baltimore-city/new-park-heights-community-center-](https://www.wmar2news.com/news/region/baltimore-city/new-park-heights-community-center-ties-together-work-and-worship)
19 [ties-together-work-and-worship](https://www.wmar2news.com/news/region/baltimore-city/new-park-heights-community-center-ties-together-work-and-worship). FCA gatherings across the country participate in humanitarian
20 causes, such as food banks and Operation Christmas Child, a ministry that provides Christmas gifts
21 to children internationally.

22 44. FCA also performs charitable works in the Bay Area. The Bay Area FCA and its
23 students have been involved in numerous charitable works, including Operation Christmas Child,
24 providing sports camps for underprivileged children in the Bay Area, and distributing sports
25 equipment to underprivileged children in the Dominican Republic and Haiti.

1 *Like many other religious organizations, FCA has a core set of beliefs that it*
2 *exercises and expresses through community, including its chapter meetings.*

3 45. FCA has a statement of faith (“Statement of Faith”) that sets forth the core religious
4 beliefs that FCA exercises and expresses as a faith community. All FCA representatives, including
5 staff, volunteers, and student leaders, are required to affirm the FCA Statement of Faith. FCA’s
6 religious beliefs are comprised of its Statement of Faith and FCA Mission Statement. In some
7 instances, FCA has created context-specific statements, like the Student Leadership Statement and
8 Sexual Purity Statement, that are rooted in its core religious beliefs.

9 46. A true and correct copy of the FCA Statement of Faith is found on page 6 of the FCA
10 Huddle Playbook, attached as Exhibit C. *See also* Exhibit D at 6. The Statement of Faith includes
11 core tenets of FCA’s religious beliefs. Each item in the Statement of Faith references biblical
12 passages from which the item is drawn.

13 47. For example, the first item in the Statement of Faith is “[w]e believe the Bible to be
14 the only inspired, trustworthy and true, without error, Word of God. (2 Timothy 3:16-17).”

15 48. The fifth item in the Statement of Faith is “[w]e believe in the present ministry of the
16 Holy Spirit, who lives within and guides Christians so they are enabled to live godly lives. (John
17 14:15-26; John 16:5-16; Ephesians 1:13-14).”

18 49. The seventh item in the Statement of Faith is “[w]e believe in the spiritual unity of
19 believers in our Lord Jesus Christ, that all believers are members of His body, the Church.
20 (Philippians 2:1-4).”

21 50. The eighth item in the FCA Statement of Faith is “[w]e believe God’s design for
22 sexual intimacy is to be expressed only within the context of marriage. . . . God instituted marriage
23 between one man and one woman as the foundation of the family and the basic structure of human
24 society. For this reason, we believe that marriage is exclusively the union of one man and one
25 woman. (Genesis 2:24; Matthew 19:5-6; Mark 10:6-9; Romans 1:26-27; 1 Corinthians 6:9).”

26 51. Student FCA chapters meet regularly to advance the religious mission of FCA to
27 reach others for Christ. One of the primary purposes of these meetings is to transmit and reinforce
28 the religious beliefs of FCA as stated in the FCA Statement of Faith. FCA’s student leaders,

1 including the Student Representatives, are a principal means of transmitting FCA's beliefs and
2 values to the members of its student groups and to the student body as a whole of their respective
3 schools.

4 52. Although FCA allows its regional staff to make minor variations in their expression
5 of its Sexual Purity Statement, the Sexual Purity Statement states:

6 God desires His children to lead pure lives of holiness. The Bible teaches that the
7 appropriate place for sexual expression is in the context of a marriage relationship. The
8 biblical description of marriage is one man and one woman in a lifelong commitment.

9 While upholding God's standard of holiness, FCA strongly affirms God's love and
10 redemptive power in the individual who chooses to follow Him. FCA's desire is to
11 encourage individuals to trust in Jesus and turn away from any impure lifestyle.

12 See Exhibit E.

13 ***The District expresses open hostility to FCA's religious beliefs.***

14 53. Prior to the events described herein, the Student FCA Chapters met without incident
15 for years at Pioneer, Willow Glen, and Leland, which are secondary schools within the District that
16 receive federal financial assistance.

17 54. All acts by Defendants, employees or officials of the District and its secondary
18 schools as alleged herein were performed under color of law and pursuant to the policies, practice,
19 and customs of the District and its secondary schools or were adopted by a final policymaker for
20 the District or his or her delegate.

21 55. During the events alleged herein, Defendants officially recognized noncurriculum-
22 related student groups. For example, during the 2019-20 academic year, Pioneer recognized
23 approximately 51 noncurriculum-related student groups, each one of which triggers the
24 requirements of the EAA. Leland recognized approximately 70 noncurriculum-related student
25 groups, and Willow Glen recognized approximately 35 noncurriculum-related student groups, each
26 one of which triggers the requirements of the EAA. Each of these schools continues to recognize
27 noncurriculum-related student groups but not student groups affiliated with FCA.

28 56. Examples of noncurriculum-related student groups that are recognized at Pioneer
while Defendants refuse to recognize the Student FCA Chapter include: Almaden Homework Club

1 (helping elementary students after school); Art Club (celebrating creativity and art); Bachelor
2 Nation (discussing the “Bachelor” television series); Baking Society (raising money for charity);
3 BC2M (“Bring Change to Mind,” raising awareness on mental health); Best Buddies (building
4 friendships with those with disabilities); Black and Blue Crew (“amping up crowd” at sports
5 events); Book Club (spreading the joy of reading); BSU (“Black Student Union,” bringing black
6 students together); Chess Club (teaching students chess); Communism Club (discussing ideas of
7 Communism); Cycling Club (meeting up with other cyclists); Dream Club (discussing dreams and
8 psychological theories); Dungeons and Dragons (playing “Dungeons and Dragons”); Ecstatic Club
9 (learning new dance skills); Flora and Fauna (spreading awareness on environmental issues);
10 Folklorico (sharing traditional dance with the school); Frisbee Club (playing Frisbee); Gifts for
11 Teens (collecting items for homeless persons); Girls Learn Club (increasing awareness on gender
12 discrimination); Girls Who Code (closing gender gap in tech); Green Team (helping clean up the
13 environment); Gender Sexuality Association (LGBTQ+ advocacy); Harry Potter Club (discussing
14 Harry Potter); Interact Club (international organization service club); K-Pop Club (discussing
15 Korean culture); Key Club (giving back to community through service); Latinx Club (sharing
16 cultural activities); Make a Difference Club (spreading awareness of world problems); Mermaids
17 Club (dancing and exploring self-expression); Multicultural Club (learning about different
18 cultures); Mustangs Handball (playing handball); Noteworthy Notes (expressing musical interest);
19 Pacific Islander Club (discussing Pacific Islander culture); Persian Club (talking about Persian
20 culture); PHS Ski and Ride (going skiing and snowboarding); Ping Pong Club (playing ping pong);
21 Pioneers for Christ (supporting one another learning about Christ); Politics Club (talking about
22 politics); Positive Balance (anti-stress safe space for students); Pre-Med Society (students who are
23 interested in the medical field); Radio Club (allowing students with own radio show); Save our Seas
24 (fundraising for a business, “4Ocean,” which cleans up the oceans); Shrek Club (talking about
25 Shrek and Dreamworks); Simply Cards (playing cards); Smash Club (playing Super Smash
26 Brothers); Spikeball Club (playing spikeball); Sports Medicine club (students interested in sports
27 medicine); Student Action Committee (encouraging activism in a positive way); Tech Deck club
28

1 (having fun with tech decks); Tetris Club (playing Tetris); UNICEF (fundraising for children); and
2 The Satanic Temple Club (practicing the Seven Tenets of The Satanic Temple).

3 57. Pioneer continues to officially recognize noncurriculum-related clubs, including
4 the Key Club, Interact Club, Harry Potter Club, Gender Sexuality Alliance, and Girls Learn
5 International. Pioneer continues to refuse official recognition to the Pioneer Student FCA Chapter.

6 58. On or about April 23, 2019, Peter Glasser, a teacher at Pioneer, used his classroom
7 to express hostility to the religious beliefs of FCA. On that date, Mr. Glasser put the FCA Statement
8 of Faith and a version of the Sexual Purity Statement on the classroom whiteboard. Under these
9 statements, Mr. Glasser wrote, “I am deeply saddened that a club on Pioneer’s campus asks its
10 members to affirm these statements. How do you feel?”

11 59. Mr. Glasser’s statements were specifically aimed at the religious beliefs of FCA and
12 its student leaders. Some FCA student leaders, including Ms. Klarke, were students in Mr. Glasser’s
13 classes when his hostility toward their religious beliefs was displayed on the classroom whiteboard.
14 Mr. Glasser left this display up in his classroom for several days despite concerns expressed by
15 some of his students, including Ms. Klarke. Ms. Sinclair was also exposed to these statements as a
16 student at Pioneer. Mr. Glasser’s statements were intended to and had the effect of making students
17 associated with FCA feel like outsiders in their community because of their religious beliefs.

18 60. Despite complaints by FCA student leaders and other students to Principal Espiritu
19 and Mr. Glasser about the display and despite the violation of District policies, no District employee
20 or officer required Mr. Glasser to take down his display or disciplined him. This was because
21 District officials and administrators at the District and Pioneer, including Defendants, share Mr.
22 Glasser’s hostility toward FCA’s religious views.

23 ***Pioneer and the District adopted and expanded Mr. Glasser’s hostile treatment***
24 ***of the FCA students due to their religious beliefs.***

25 61. Not only did the District, including Superintendent Albarrán and Principal Espiritu,
26 refuse to discipline Mr. Glasser or order him to take down his display, the District and its officers
27 adopted, both formally and in practice, Mr. Glasser’s hostile view toward the religious views of the
28

1 Student FCA Chapters. Mr. Glasser coordinated with Principal Espiritu and other District officials
2 to find justifications for the District to revoke recognition of the Student FCA Chapters.

3 62. On May 2, 2019, less than two weeks after Mr. Glasser posted his disparagement of
4 FCA's religious beliefs in his classroom, Principal Espiritu told Ms. Klarke and Ms. Sinclair,
5 student leaders of the Pioneer Student FCA Chapter, that FCA would no longer be a recognized
6 student group at Pioneer. Principal Espiritu presented this decision to the Pioneer Climate
7 Committee which concurred with the decision. Mr. Glasser participated in the Climate
8 Committee's concurrence. District officials, including Defendants, made this decision without any
9 prior discussion with the FCA students. The decision to derecognize FCA was accompanied by a
10 statement that the District "does not sponsor programs and activities with discriminatory practices."
11 Neither Principal Espiritu nor any District official identified any discriminatory practices or acts by
12 the Student FCA Chapters. At the same time, District officials informed FCA student leaders at
13 Leland and Willow Glen that neither the District nor their respective high schools would recognize
14 their groups.

15 63. Defendants' use of FCA's religious beliefs and speech as a cause for derecognition
16 of student groups affiliated with FCA was intended to and had the effect of making Ms. Klarke,
17 Ms. Sinclair, the Student Representatives and other students who share FCA's religious beliefs feel
18 like outsiders in their community because of their religious beliefs.

19 64. The denial of recognition results in the loss of numerous benefits associated with
20 recognition, including: access to faculty advisors; inclusion in the school yearbook; access to
21 Associated Student Body ("ASB") funds and accounts; permission to fundraise through club
22 activities; and other benefits. ASB funds are raised by the student body and do not come from tax
23 revenue.

24 65. Defendants have targeted the Student FCA Chapters specifically for their religious
25 beliefs. District officials told students at Willow Glen that they could regain recognition of their
26 religious group by forming a new group not associated with FCA. District officials told a member
27 of the faculty at Leland that the Leland Student FCA Chapter would not be recognized if it
28 continued to require its leaders to approve the FCA Statement of Faith. The FCA students at Leland

1 were told they would only be approved as an interest group, not as a club. Interest groups do not
2 receive the benefits associated with club recognition, such as access to ASB funds.

3 66. Although Defendants recognized that the Student FCA Chapters have a right to
4 campus access under the EAA and other laws, District officials and employees, including at least
5 Mr. Glasser and Principal Espiritu, coordinated to find ways to remove the Student FCA Chapters
6 from the District high schools entirely.

7 67. Ms. Sinclair and Ms. Klarke applied for club recognition at Pioneer as a Student FCA
8 Chapter for the 2019-20 school year. Their application was denied. Michelle Mayhew, the Pioneer
9 Activities Director, and the ASB president signed the denial of the Pioneer Student FCA Chapter
10 application on orders from Principal Espiritu. Principal Espiritu and Mr. Glasser specifically took
11 actions to ensure that the Pioneer Student FCA Chapter would not be recognized. Superintendent
12 Albarrán also participated in the decision to derecognize the Student FCA Chapters. This denial is
13 attached as Exhibit F.

14 68. L.W. and B.W. applied for club recognition at Pioneer for a Student FCA Chapter
15 during the 2020-21 school year. The Pioneer Student FCA Chapter meets all stated requirements
16 for recognition provided when Pioneer renewed student club activity in or around September 2020.
17 Although Defendants have allowed the Pioneer Student FCA Chapter to participate in club rush
18 and hold meeting, the District and Defendants refuse to recognize the Pioneer Student FCA Chapter
19 as an officially recognized student group and while continuing to offer official recognition to other
20 noncurriculum-related student groups.

21 69. Since this litigation began, District officials have begun to claim that officially
22 recognized student groups must now submit a newly created ASB Affirmation Form. This form
23 contains various provisions, including nondiscrimination provisions, that Defendants contend the
24 Student FCA Chapters violate because of the requirement that their leaders agree with FCA's
25 religious beliefs. Because the District and Defendants have taken the position that a Student FCA
26 Chapter's requirement that its student leaders agree with its religious beliefs violates the District's
27 nondiscrimination policy, the student leaders of the Student FCA Chapter at Pioneer cannot in good
28 faith certify their compliance with the District's nondiscrimination policy or sign the ASB

1 Affirmation Form without altering the religious beliefs, speech, and content of their group’s
2 message and its meetings.

3 70. Pursuant to District BP 3452, the principal of each school, including Principal
4 Espiritu, is delegated responsibility for the distribution of club funds. Pursuant to District policies,
5 Defendants Albarrán and Espiritu have authority to recognize student groups and participated in
6 the decision to derecognize the Student FCA Chapters. Mr. Glasser also approved the derecognition
7 of the Student FCA Chapter at Pioneer through his role in the Pioneer Climate Committee.

8 71. The Student FCA Chapters were recognized student groups for a number of years
9 and continue to meet all criteria to be a recognized student group. Defendants derecognized the
10 Student FCA Chapters because of the content and viewpoint of their religious beliefs and speech.
11 Because the Student FCA Chapters are not recognized as student clubs by the District, they have
12 been denied and continue to be denied the previously identified benefits granted to recognized
13 student clubs.

14 ***The District has approved of and facilitated attempts to harass and intimidate***
15 ***FCA students.***

16 72. Not only have Defendants and other District officials revoked and denied recognition
17 to the Student FCA Chapters, Defendants have approved and facilitated harassment of FCA
18 students, including Ms. Klarke, Ms. Sinclair, and the Student Representatives, by faculty and other
19 students due to Plaintiffs’ religious beliefs and message.

20 73. By way of example, District BP 3515.2 specifies that the “Superintendent or designee
21 shall provide for the prompt removal from school premises of any individual who disrupts or
22 threatens to disrupt normal school operations, threatens the health and safety of students or staff, or
23 causes property damage.”

24 74. Similarly, California Educational Code § 48900(r)(1) defines bullying as “any severe
25 or pervasive physical or verbal act or conduct . . . that has or can be reasonably predicted to have
26 the effect of one or more of the following: (d) causing a reasonable pupil to experience substantial
27 interference with his or her ability to participate in or benefit from the services, activities, or
28 privileges provided by a school.”

1 75. Despite these policies, Defendants and other District officials have harassed and
2 bullied or allowed faculty and students to harass and bully the students wishing to attend the Pioneer
3 Student FCA Chapter meetings, before, during, and after their meetings. District officials and
4 Defendants understood that the planned harassment would likely intimidate the FCA students. Ms.
5 Klarke and Ms. Sinclair expressed concerns to Principal Espiritu. These concerns were also
6 expressed in letters written by legal counsel for FCA to Principal Espiritu.

7 76. Following the District's decision to revoke its recognition of the Student FCA
8 Chapters, Principal Espiritu spoke with students opposed to FCA about their concern over FCA
9 continuing to meet at Pioneer even as an unrecognized student group. At least some of these
10 students subsequently formed The Satanic Temple Club at Pioneer. The District approved
11 recognition of The Satanic Temple Club and granted its request to meet at the same time as the
12 derecognized Student FCA Chapter met at Pioneer despite knowing that these students were
13 planning to protest against the FCA students' meetings.

14 77. Principal Espiritu and other District officials, including Superintendent Albarrán,
15 have allowed some Pioneer students to harass and intimidate the FCA students with impunity. On
16 September 16, 2019, students associated with The Satanic Temple Club passed out flyers
17 announcing the intent to gather directly outside of the meeting space for the Pioneer Student FCA
18 Chapter's meeting in order to denounce the FCA students' religious beliefs. When Principal
19 Espiritu was asked to intervene to prevent harassment of the FCA students, he initially indicated
20 that any demonstrations would be moved to an area away from the FCA meetings, but ultimately
21 refused to take any preventative actions.

22 78. District officials expected these protests to intimidate and harass FCA students. Mr.
23 Glasser and Principal Espiritu each understood that singling out the Student FCA Chapters would
24 subject FCA students to harassment. Nonetheless, the Defendants took no effort to prevent or
25 mitigate the harassment, for example, by maintaining a buffer zone between the hostile protesting
26 students and those students attending the FCA meetings.

27 79. On October 23, 2019, Pioneer students attempted to harass, intimidate, and prevent
28 the Pioneer Student FCA Chapter students from meeting. District officials, including Principal

1 Espiritu, were aware of the students' plans but did nothing to inform the FCA student leaders or to
2 stop the students' harassing and intimidating behavior. The protesting students yelled at the FCA
3 students as they were entering their meeting and held signs disparaging their religious beliefs.
4 District officials knew such harassment would likely deter some Pioneer students from participating
5 in FCA meetings but allowed the harassment and intimidation to proceed.

6 80. On November 6, 2019, student reporters from the school newspaper, *The Pony*
7 *Express*, which has published editorials vilifying the Student FCA Chapters' religious beliefs,
8 entered the Pioneer Student FCA Chapter meeting in a manner calculated to harass and intimidate
9 the FCA students. In the thirty-minute meeting, the school newspaper's reporters took more than
10 300 pictures, standing only a few feet from, and putting the camera into, the face of each student as
11 he or she spoke. When the Pioneer administration received complaints about the student reporters'
12 behavior, Principal Espiritu told FCA students that they would have no presence in the yearbook,
13 including their own individual photos, if they did not allow the students acting on behalf of the
14 school newspaper to take pictures at the FCA students' meetings.

15 81. On December 4, 2019, protesting students, including members of The Satanic Temple
16 Club, with the knowledge and approval of District officials, attempted to harass the FCA students
17 by intruding into the classroom while they were meeting. At least one member of the faculty was
18 actively involved in this harassment and encouraged students to enter the meeting. Only the
19 intervention of the school resource officer prevented further harassment.

20 82. Though the intruding students were prohibited from entering due to the officer's
21 actions, they and faculty remained outside of the meeting room with the intent to harass and bully
22 the FCA students from holding or attending future meetings. This attempt caused emotional distress
23 for Ms. Klarke and Ms. Sinclair, who as student leaders of the Pioneer Student FCA Chapter, were
24 present at each of these meetings and subject to the harassment described herein. Other members
25 of the Pioneer Student FCA Chapter, including L.W., B.W. were also subject to these protests.

26 83. In February 2020, Assistant Principal Amy Hanna threatened to punish Ms. Sinclair
27 and Ms. Klarke and other FCA students at Pioneer for taking pictures of students harassing them,
28

1 despite also telling the FCA students that they would be punished for refusing to be photographed
2 by students harassing them.

3 84. Although specific incidents are described here in detail, similar harassment of
4 students in the Pioneer Student FCA Chapter, which includes Ms. Sinclair, Ms. Klarke, and the
5 Student Representatives occurred nearly every FCA meeting. Although protests have temporarily
6 subsided because in-person meetings have been suspended, FCA and its Student Representatives
7 have a reasonable expectation that such protests will resume when in-person classes resume, at least
8 in part because of the encouragement of student protests by faculty and staff and the harassment as
9 described herein.

10 85. Unfortunately, FCA students have not only been harassed by other students. Faculty
11 within the District, including Defendants, have also openly disparaged their religious beliefs and
12 participated in the harassment of the Student FCA Chapters.

13 86. As previously noted, Mr. Glasser wrote remarks disparaging FCA's religious beliefs
14 on the whiteboard in his classroom and then left them there for several days. Mr. Glasser
15 encouraged Pioneer students to pursue derecognition of the Student FCA Chapter and denial of its
16 application to be a recognized student group in the 2019-2020 academic year. When a Stanford
17 athlete came to speak to the Pioneer Student FCA Chapter on September 25, 2019, Mr. Glasser met
18 the athlete at the desk where outside visitors sign-in and attempted to dissuade him from speaking
19 to the Student FCA Chapter, calling FCA a discriminatory group.

20 87. In addition, Chanel Sulc, a teacher at Pioneer, has encouraged and participated in
21 demonstrations aimed at disparaging FCA's religious beliefs and harassing the FCA students
22 before, during, and after their meetings. The teacher also actively encouraged students to harass
23 the FCA students as they entered, attended, and left their meetings.

24 88. The actions of students and faculty hostile to FCA, as described above, at a minimum,
25 were reasonably predicted to harass, intimidate, and bully the FCA students from meeting at
26 Pioneer. In contrast, Principal Espiritu and Mr. Glasser noted that Ms. Klarke and Ms. Sinclair
27 acted maturely with respect to the District's disparagement of their religious beliefs.
28

1 89. Nonetheless, on information and belief, Defendants have taken no action to discipline
2 any student or faculty member for their attempts to harass and intimidate the students who wish to
3 participate in the FCA students' meetings.

4 ***The District Recognizes One or More Noncurriculum-Related Student Groups***
5 ***that Trigger the Requirements of the Equal Access Act.***

6 90. Pioneer, Willow Glen, and Leland are public secondary schools that receive federal
7 financial assistance and maintain a limited open forum for noncurriculum-related student groups to
8 meet. These schools are subject to the authority and control of the District.

9 91. Pioneer, Willow Glen, and Leland recognize numerous noncurriculum-related
10 student groups and allow them to meet. Pioneer has recognized over 50 noncurriculum-related
11 student groups, including Key Club, Interact Club, and Chess Club, which are quintessential groups
12 that trigger the EAA's requirement that a religious student group be recognized and given the
13 benefits afforded other noncurriculum-related student groups meeting at the school. The recognized
14 noncurriculum-related student groups at Pioneer are listed in ¶ 56.

15 92. Leland has recognized approximately 70 noncurriculum-related student groups,
16 including Chess Club, Gender Sexuality Alliance/Gay Straight Alliance, and Key Club, which are
17 quintessential groups that trigger the EAA's requirement that a religious student group be
18 recognized and given the benefits afforded other noncurriculum-related student groups meeting at
19 the school. Leland continues to recognize numerous noncurriculum-related clubs, including the
20 Gender-Sexuality Alliance and Key Club.

21 93. Examples of noncurriculum-related student groups that the District has recognized at
22 Leland while denying recognition to Student FCA Chapters include: 2050 (fundraising for the
23 Environmental Defense Fund); 4K Dance (focusing on K-Pop); Acts of Random Kindness
24 (performing random acts of kindness); Advocates for Disabled Adolescents through Projects and
25 Toys ("ADAPT") (learning about genetic diseases and fundraising for a children's hospital); AI
26 Club (teaching AI technology); Amnesty International Club (writing letters and petitions about
27 human rights); Anime Club (spreading appreciation for Japanese culture); Art Club (participating
28 in fun art-related activities); Aviation Club (learning about aviation); Bare Necessities (collecting

1 hygiene products for homeless shelters); Bioinformatics Club (exploring biology and computer
2 science); Black Student Union (students of color sharing their school experiences); Bridge Club
3 (playing bridge); Calligraphy Club (lettering and calligraphy); CAN Club (assisting local food
4 bank); Card Games Club (playing card games); Charger Pals (building relationships with special
5 needs students); Chargers for the Cure (promoting healthy living); Chess Club (playing chess);
6 Cinema Club (discussing American film); Code-matics Club (exploring math and computer
7 science); Codementary (gathering passionate coders); Creation Club (making unconventional art);
8 Economics Club (discussing economics); Entourage (student cheering section); Future Business
9 Leaders of America (preparing for business careers); Finance Club (educating about personal and
10 global economies); Game Club (playing games); Game Design and Programming Club (developing
11 games); Games Club of Leland (playing games); Gaming to Give (raising money for non-profits);
12 Girls Who Code (closing the gender gap in engineering); Glee Club (performing music); Gender
13 Sexuality Alliance/Gay Straight Alliance (“GSA”) (discussing LGBTQ+ history and personal and
14 social issues); Handcrafted Club (crafting); Helping Hands (fundraising for Iranian orphanages);
15 Hockey Club (discussing hockey); Indian Heritage Club (promoting Indian culture); International
16 Club (exploring different cultures); Journey Around the World (fundraising for Cambodian school);
17 Key Club (providing service, building character, and developing leadership); Ladki Love
18 (fundraising for Indian children’s education); Leland American Red Cross (teaching community
19 disaster preparedness); Leland Bring Change to Mind (“BC2M”) (ending stigma around mental
20 health); Leland Girl Up (fundraising for girls’ education in third world countries); Leland Junior
21 State of America (discussing politics); Leland Medical Club (pursuing medical careers); Leland
22 Oceanic Preservation Club (educating about the oceans); Leland Robotics 604 (competing in
23 robotics competitions); Leland STEM Club (inspiring younger students); Leland Women (creating
24 empowered women on campus); Linguistics Club (informing about linguistics); Liberty in North
25 Korea (“LINK”) (fundraising for North Korean refugees); Machine Learning and Hackathon Club
26 (teaching basic algorithms); Make A Wish (fundraising for the Make A Wish Foundation); Math
27 Club (participating in extracurricular math competitions); Meditation and Stress-Reduction Club
28 (practicing stress-reduction); Model United Nations (preparing for model UN conferences); Music

1 Club (playing music and performing community service); National Honor Society (recognizing
2 students for scholarship, character, leadership, and service); Origami Club (folding origami);
3 Physics Club (preparing for physics competitions and tutoring other students); Podcast Club
4 (producing podcasts); Psychology and Neuroscience Club (exploring psychology and
5 neuroscience); Quiz Bowl (playing trivia); Save the Children (fundraising and petitioning for
6 national organization); Senior Women (helping persons in need in the community); Students for
7 the Environment (hosting environmental community service projects); Students Rebuild
8 (combining art and philanthropy to make a difference in the community and globally); Table Tennis
9 (playing table tennis); and Youth Conservative Forum (exposing students to conservative ideas).

10 94. Willow Glen has recognized over 30 noncurriculum-related student groups while the
11 District has refused to recognize the Student FCA Chapters, including Democratic Socialists of
12 America, Key Club, and Interact Club, which are quintessential groups that trigger the EAA's
13 requirement that a religious student group be recognized and given the benefits afforded other
14 noncurriculum-related student groups meeting at the school. Willow Glen continues to recognize
15 noncurriculum-related student groups, including Key Club and Interact Club.

16 95. Examples of noncurriculum-related student groups that the District recognized at
17 Willow Glen during the 2019-20 academic year include: Anime Club; Art Club; Black Student
18 Body; Book Club; Buddies Club; Christian Club; Clean Wave Club; Democratic Socialists of
19 America; Doki Literature Club (video game); Drama Club; Dubs Only (spirit club); FIDM Club
20 ("Fashion Institute of Design and Merchandising Fashion Club"); Fighting Game Club; Film Club;
21 French Club; Frisbee Club; Hack Club; Hacky Sack Club (playing footbag game); Hiking Club; Ice
22 Hockey; Interact; Invisible Issues Club; Jewish Culture Club; Key Club; Latino Club and Dreamers;
23 Model United Nations Club; National Honor Society; Plus Club; Recycling Club; Robotics Club;
24 Showcase Club; Spikeball Club; Tabletop Club; The Environmental Protection Club; Thespian
25 Club; and True Crime Club.

26 96. Club recognition and its benefits also create a limited public forum available to
27 students. *See Prince v. Jacoby*, 303 F.3d 1074, 1090-91 (9th Cir. 2002). Defendants and other
28

1 District officials have denied and continue to deny recognition and its associated benefits to the
2 Student FCA Chapters in clear violation of the EAA and First Amendment.

3 *The District recognizes student groups that trigger the FCA students' First*
4 *Amendment right to meet to express their religious viewpoints.*

5 97. Defendants and other District officials recognize noncurriculum-related student
6 groups at Pioneer, Willow Glen, Leland, and other public secondary schools within the District that
7 trigger the EAA's requirement that the District recognize the Student FCA Chapters. Many of these
8 same student groups are organized for purposes of discussing certain viewpoints that separately and
9 independently trigger the FCA students' constitutional right to meet. Defendants coordinated to
10 revoke recognition of the Student FCA Chapters because they hope to stifle viewpoints espoused
11 by the Student FCA Chapters.

12 98. For example, the District has recognized other student groups that discuss religious
13 or atheistic ideas and values, including The Satanic Temple Club, Pioneers for Christ, and
14 Communism Club at Pioneer, the Muslim Club and Shekinah Christian Club at Leland, and the
15 Jewish Cultural Club and Christian Club at Willow Glen. The District continues to recognize such
16 clubs, including the Shekinah Christian Club. The Student FCA Chapters discuss religious ideas
17 and values from a specific religious viewpoint.

18 99. The District recognizes student groups that discuss issues regarding sexuality, such
19 as the Gender Sexuality Association (Pioneer), Gay Straight Alliance (Leland), and Sexuality and
20 Gender Acceptance Club (Willow Glen). The District continues to recognize these student groups.
21 The Student FCA Chapters discuss issues regarding sexuality from a specific religious viewpoint.

22 100. The District recognizes numerous student groups that discuss ways to serve others in
23 the community, including but not limited to: Almaden Homework Club (tutoring elementary
24 students); Baking Society (fundraising for charity); BC2M (raising awareness regarding mental
25 health); Best Buddies (friendships with persons with disabilities); Castellero Math Tutoring
26 (tutoring middle school students); Gifts for Teens (collecting items for homeless persons); Green
27 Team (cleaning up the environment); Interact Club (an international service club); Key Club (giving
28 back to the community through service); Make a Difference Club (spreading awareness of world

1 problems); Positive Balance (providing an anti-stress, safe space for students); Save our Seas
2 (fundraising for ocean clean-up); Student Action Committee (encouraging activism in a positive
3 way); and UNICEF (fundraising for children). Defendants continue to officially recognize such
4 groups as BC2M, Best Buddies, and Interact Club. The Student FCA Chapters discuss issues
5 regarding how to serve others and their community from a specific religious viewpoint.

6 101. The District recognizes student groups that are based on the specific identity
7 promoted by those groups, including: BSU (Black Student Union); Girls Learn Club (increasing
8 awareness on gender discrimination); Girls Who Code (closing gender gap in tech); K-Pop Club
9 (discussing Korean culture); Latinx Club (sharing cultural activities); Pacific Islander Club
10 (discussing Pacific Islander culture); and Persian Club (talking about Persian culture). Defendants
11 continue to officially recognize these groups, including the Girls Learn Club, Girls Who Code, and
12 the Pacific Islander Club. The Student FCA Chapters discuss issues of identity and affinity from a
13 religious viewpoint.

14 102. The District recognizes student groups that meet to discuss books they have read,
15 such as the Book Club, which exists to spread the joy of reading, and Harry Potter Club, which
16 meets to discuss the Harry Potter book series. Defendants continue to recognize the Book Club and
17 Harry Potter Club. Student FCA Chapters encourage students to read and discuss the Bible, the
18 best-selling book of all time, from a religious viewpoint.

19 103. To the extent that Defendants rely on the District's nondiscrimination policy, such
20 reliance is pretextual. The District does not apply its nondiscrimination policies uniformly. The
21 District recognizes, supports, and even sponsors student groups and activities that deny membership
22 or leadership opportunities on the basis of students' belonging to enumerated classes. For example,
23 the District and Pioneer sponsor and support numerous single-sex athletic teams. For example,
24 Pioneer has Boys' Wrestling teams, separate Girls' & Boys' Basketball teams, and Girls' Softball
25 teams. On information and belief, these teams discriminate on the basis of sex and gender identity.
26 Additionally, these exceptions are determined on an individualized basis. The policy is
27 unconstitutional and violates the EAA as applied to Plaintiffs.
28

1 104. Similarly, District officials, including Defendants Espiritu and Albarrán, have
2 approved applications for numerous noncurriculum-related student groups that have expressed
3 gender, religious, or racial membership or leadership requirements in their applications. For
4 example, Pioneer has recognized the “Big Sister/Little Sister” club, whose purpose is to “help
5 freshmen learn the school better and get advice from senior girls.” Similarly, the Black Student
6 Union’s purpose is “to bring black students together to strive for academic excellence and promote
7 positive images and defy stereotypes and to bring more cultural and social events for black students
8 to Pioneer.” These exemptions are made on an individualized basis. Defendants continue to
9 discriminate against the Pioneer Student FCA Chapter and the Student Representatives because of
10 the religious content and viewpoint of their message.

11 105. On information and belief, Defendants and other officials within the District have
12 advocated to officials in other school districts that they not recognize FCA because of its religious
13 beliefs.

14 106. Defendants’ actions, including their refusal to recognize the Student FCA Chapters
15 and their approval and acceding to student and faculty harassment toward FCA and its students,
16 have caused emotional distress to Ms. Sinclair and Ms. Klarke.

17 107. Defendants’ actions have frustrated FCA’s mission of reaching athletes and other
18 students and promoting FCA’s religious beliefs, speech, and values. Defendants’ derecognition of
19 the Pioneer Student FCA Chapter and other Student FCA Chapters in the District are intended to
20 and have the effect of stigmatizing FCA’s religious beliefs, speech, and values. By stigmatizing
21 FCA’s religious beliefs, speech, and values, Defendants frustrate FCA’s mission of promoting its
22 religious beliefs, speech, and values to athletes and other students. These actions further frustrate
23 FCA’s mission by making students and athletes less likely to start or maintain a student-led FCA
24 Chapter at their school. Because of Defendants’ actions, the Student FCA Chapters at Leland and
25 Willow Glen have ceased meeting. By denying benefits to Student FCA Chapters because of the
26 content and viewpoint of their religious speech and message and agreement with FCA’s religious
27 beliefs, speech, and values, Defendants discourage students from attending meetings and events
28 held by Student FCA Chapters.

1 108. Furthermore, Defendants' actions have made, and can reasonably be predicted to
2 make, students feel unsafe attending meetings and events held by the Student FCA Chapter.
3 Students who may otherwise attend meetings would reasonably be deterred by the harassment and
4 intimidation that Defendants have consciously allowed and encouraged. This deterrence frustrates
5 the religious mission of FCA and its Student Representatives.

6 109. Additionally, Defendants' actions frustrate FCA's purposes by denying the Student
7 FCA Chapters benefits on the basis of leadership criteria. This denial of benefits impedes the
8 religious message of FCA and its Student Representatives by forcing them to choose between
9 foregoing generally available benefits or giving up leadership criteria necessary to protect the
10 religious beliefs and message of those student-led groups with whom it affiliates.

11 110. Defendants' actions have caused FCA to divert resources from its core mission of
12 promoting its Christian values and leading students into a growing relationship with Jesus Christ.
13 For example, Rigo Lopez, FCA's Metro Director for the Bay Area has spent time that he would
14 otherwise use to provide ministry outreach and support to other Student FCA Chapters within the
15 Bay Area to ensure the safety and raise the morale of the students who attend the Pioneer Student
16 FCA Chapter. Additionally, Mr. Lopez has had to more frequently attend meetings of the Pioneer
17 Student FCA Chapter in order to protect the students from harassment and intimidation. He would
18 otherwise spend this time on other ministry advancing tasks, such as supporting other student
19 groups, training new staff, raising financial resources, developing relationships with guest speakers,
20 or in preparation for supporting other FCA ministry objectives. *See Pac. Shores Properties, LLC*
21 *v. City of Newport Beach*, 730 F.3d 1142, 166-67 (9th Cir. 2013) ("Diverted staff time is a
22 compensable injury.").

23 111. Mr. Lopez has had to divert his time and resources interacting with numerous officials
24 at the District, including Principal Espiritu. Mr. Lopez also has had to spend time monitoring,
25 documenting and reporting the treatment of the students at Pioneer by Defendants, faculty, and
26 students at Pioneer. This is additional time he has had to divert from ministry tasks.

27 112. Additionally, senior leaders of FCA have had to divert time and resources from their
28 regular duties to address and mitigate Defendants' unlawful actions.

1 113. FCA has also diverted resources by hiring and paying attorneys to prepare and send
2 correspondence to school officials in an attempt to educate these officials about the rights of
3 students to affiliate with FCA and to promote FCA's religious beliefs, speech, and values under the
4 EAA and the First Amendment. FCA later paid attorneys to prepare correspondence regarding the
5 planned protests of FCA students and the District's acquiescence in the harassment of FCA
6 Students. FCA has further diverted resources to educate its student leaders, including the Student
7 Representatives, Ms. Sinclair, and Ms. Klarke of their legal rights under the EAA and the First
8 Amendment. This frustration of mission and the diversion of Mr. Lopez's time and other FCA
9 resources are ongoing as Defendants discrimination against and harassment of FCA students
10 continues.

11 ***FCA student leaders lead religious activities at their meetings and express the***
12 ***group's religious message.***

13 114. Students interested in becoming FCA student leaders submit a student leadership
14 application. These student leadership applications are based on FCA's model student leadership
15 application, although minor variations may be made by FCA regional staffs. All schools in the
16 District and their Student FCA Chapters are within the ministry of the Bay Area FCA. The Bay
17 Area FCA Student Leader Application includes the FCA Statement of Faith and FCA Student
18 Leadership Statement. It also references FCA's Sexual Purity Statement. These statements lay out
19 the core religious beliefs of FCA and the qualifications expected of student leaders. A true and
20 correct copy of the Bay Area student leadership application is attached as Exhibit B. Ms. Sinclair,
21 Ms. Klarke, and each of the Student Representatives have submitted this student leadership
22 application to FCA.

23 115. FCA's student leaders and FCA share a personal stake in the outcome of this matter.
24 FCA's student leaders, including the Student Representatives, agree to affiliate with FCA and fill
25 out a student leadership application asking FCA to approve of them as its representatives. The
26 Student Representatives and FCA share FCA's core religious beliefs and mission of 1) seeing all
27 people, with an emphasis on athletes and those with an interest in athletics, develop a personal
28 relationship with Christ and 2) promoting FCA's religious beliefs, speech, and values.

1 116. FCA’s student leaders choose to represent FCA through their participation in and
2 leadership of student FCA groups throughout the country and signify that association through their
3 completion of a student leadership application. FCA similarly associates with its student leaders
4 by approving their applications, holding them out as its representatives, affiliating with their
5 student-led groups, and providing them support and training, including FCA materials and access
6 to FCA’s ministry staff. FCA student leaders help to create and run student groups affiliated with
7 FCA and spread FCA’s religious message.

8 117. In addition to asking whether student leadership applicants agree with the Statement
9 of Faith, the Bay Area FCA student leadership application asks applicants to include relevant
10 information about their Christian faith, including when they first believed in Jesus, what it means
11 to be a Christian, and why people go to Heaven.

12 118. Each student leadership application asks whether the student agrees to conform to
13 FCA’s Student Leadership Statement, which sets out requirements that student leaders are expected
14 to fulfill and states that student leaders are expected to conduct themselves according to a higher
15 standard. The Student Leadership Statement provides as follows:

16 Just as “captains” are held to a higher standard for their team, FCA
17 Student Leaders are held to a higher standard of biblical lifestyle and
18 conduct. God desires all of His people, especially leaders, to pursue His
19 standards of holiness through their conduct and obedience. Paul the
20 Apostle instructed young Timothy to live similarly in 1 Timothy 4:12
(NLT): “Do not let anyone think less of you because you are young. Be
an example to all believers in what you say, in the way you live, in your
love, your faith, and your purity.”

21 FCA Student Leaders are not always perfect examples, but they do their
22 best to live and conduct themselves in accordance with biblical values
23 and instruction in order to glorify God. If there are questions about
24 what God says regarding how we live, love, or live sexually pure lives,
FCA encourages student leaders to look to the Bible as their Playbook
and speak to a FCA Adult Volunteer or Staff member if there are
25 further questions.

26 Exhibit B.

27 119. The Bay Area FCA student leadership application further states that “Each FCA
28 representatives [*sic*] shall affirm their agreement with FCA’s Christian beliefs and shall not

1 subscribe to or promote any religious beliefs inconsistent with these beliefs.” *Id.* Additionally,
2 “FCA Representatives shall at all times (both during working and non-working hours) endeavor to
3 conduct themselves in a manner that affirms biblical standards of conduct in accordance with FCA’s
4 Christian beliefs. Such conduct standards include FCA’s Youth Protection Policy and Sexual Purity
5 Statement.” *Id.*

6 120. Each FCA student leader, including the Student Representatives, must be “ready,
7 willing and able to participate and contribute to distinctly Christian activities such as worship and
8 prayer services.” *Id.*

9 121. Each FCA student leader has a role that helps promote FCA’s religious beliefs and
10 message. For example, the Pioneer Student FCA Chapter President is responsible for the content
11 of the meetings, including planning and preparing the agenda for club meetings and leading the
12 meetings. The Vice-President shares these responsibilities with the President and must fulfill these
13 duties if the President is unable to do so. The Treasurer’s responsibilities include overseeing club
14 fund-raising efforts and ensuring that these fundraisers reflect FCA’s religious beliefs, message,
15 and values. The Secretary’s responsibilities include speaking on behalf of the Student FCA group,
16 through carrying out its correspondence and shaping its religious content. *See* Exhibit G (Pioneer
17 Constitution).

18 122. FCA student leaders must agree with FCA’s Sexual Purity Statement. That statement
19 asks student leaders to abstain from any sexual acts outside of a marriage consistent with FCA’s
20 religious beliefs. The Sexual Purity Statement is attached at Exhibit E.

21 123. The Student FCA Chapters’ ability to express their Christian beliefs would be
22 significantly impaired if they were not allowed to require their leaders to share their core religious
23 beliefs and values. For example, because the Student FCA Chapters are student-led, the student
24 leaders choose the speakers, religious activities, and religious message of each meeting.

25 124. FCA student leaders serve as ministers for FCA. The FCA Huddle Playbook
26 (“Playbook”) describes each FCA student club as a ministry. *See* Exhibit C. The Playbook further
27 indicates that “[a]s ambassadors of Jesus Christ, we are positioned as ministers of the Gospel to the
28 world.” *See* Exhibit C at 2.

1 125. As stated in the Playbook, “FCA is a Christian community *that is led by* those who
2 serve FCA’s mission as its representatives, including all of FCA’s directors, officers, employees,
3 *and volunteer leaders*, each of whom is an integral part of the community (and are described in this
4 Manual as ‘FCA Representatives’).” *Id.* at 7 (emphasis added).

5 126. All FCA student leaders “must contribute to FCA’s Christian character and mission”
6 and are expected to “[u]se personal gifts and talents to help plan and implement FCA ministry . . .
7 including leading Bible Study Workouts.” *Id.* at 9.

8 127. Within FCA, the title “student leader” designates a ministerial role. For example,
9 FCA student leaders must apply for their positions and are selected for their ability to demonstrate
10 FCA’s religious beliefs in word and conduct. FCA student leaders “are held to a higher standard
11 of biblical lifestyle and conduct.” *Id.* at 58.

12 128. FCA student leaders, including the Student Representatives, apply for leadership
13 positions, commit to being held to a higher standard of biblical conduct, and typically lead their
14 clubs in prayer and Bible study.

15 ***The District’s discrimination against the Student FCA Chapters is intentional***
16 ***and pursuant to the policies, practices, and customs of the District.***

17 129. All of the discriminatory and unlawful acts taken by Defendants and other officials,
18 employees, and staff of the District, Pioneer, Willow Glen, and Leland, as alleged herein, were
19 pursuant to the policies, practices, and customs of the District and acting under color of law. These
20 actions were performed by, approved by, or adopted by Superintendent Albarrán as the District’s
21 chief executive officer or her delegate or other final policymaker.

22 130. When Principal Espiritu informed the FCA student leaders that the Student FCA
23 Chapters would no longer be recognized at Pioneer, his email cited District policies. FCA student
24 leaders for all Student FCA chapters within the District were informed at or near this time that the
25 District would not recognize a Student FCA Chapter at any school because of instructions from the
26 District.

27 131. Additionally, the Superintendent of the District, who is chiefly responsible for
28 interpreting and executing District policy, was informed in writing about the revocation of FCA’s

1 recognition as a student club and subsequent denial of its recognition for the 2019-2020 academic
2 year in letters sent on behalf of FCA. Superintendent Albarrán and Principal Espiritu were expressly
3 informed in letters sent on behalf of FCA that the District's decision to derecognize the Student
4 FCA Chapters violates federal law and the United States Constitution but continued to approve of
5 and allow discrimination against the Student FCA Chapters.

6 132. Pursuant to BP 2120 of District Policies and Regulations, Ms. Albarrán,
7 Superintendent of the District, is "the chief executive officer and educational leader of the district."
8 Additionally, Superintendent Albarrán has authority over recognition of student groups. *See* AR
9 6145.5. Her edicts or acts may be fairly said to represent official policy for the District. All events
10 described herein occurred with her knowledge and approval either through prior knowledge and
11 assent or through adoption of the actions taken by District employees.

12 133. The Superintendent has taken no action to correct this revocation and rejection
13 despite being informed of its illegality. The Superintendent has adopted the denial of FCA
14 recognition as consistent with and compelled by District policy, practice, and custom.

15 134. Defendants' actions were taken pursuant to official policy, as evidenced, among other
16 things by Principal Espiritu's citations to District policy and the District's refusal to correct its
17 actions and recognize FCA even after the illegality of its decisions was pointed out.

18 135. All actions as alleged herein as performed by Principal Espiritu were performed as
19 the Superintendent's designee or with the approval of the Superintendent. Additionally, Principal
20 Espiritu, as principal for Pioneer, is responsible for overseeing club recognition and protecting
21 students from bullying and discrimination at Pioneer. For example, pursuant to District BP 3452,
22 the principal of each school is delegated responsibility for the distribution of club funds. Principal
23 Espiritu had actual knowledge of the facts described herein and refused to act despite having a duty
24 to do so.

25 136. All actions of District officials as alleged herein were made with the approval of
26 Superintendent Albarrán or a person to whom she has delegated authority or other final
27 policymaker, or pursuant to District policies, including without limitation BP 0410 and BP 5145.3.
28 To the extent not expressly performed by Superintendent Albarrán, all actions by District officials

1 alleged herein were made, approved, or adopted by Superintendent Albarrán, her delegate, or
2 another final policymaker for the District.

3 137. Ms. Sinclair and Ms. Klarke have been directly affected by the events described
4 herein and have suffered mental anguish, including fear, anxiety, and loss of sleep. Ms. Sinclair,
5 Ms. Klarke, and the Student Representatives have also been, and the Student Representatives and
6 other FCA students at Pioneer continue to be, deprived of rights granted them under the Equal
7 Access Act, the United States Constitution, and other federal law. This deprivation of rights is
8 ongoing as to the Student Representatives and will continue unless the Court provides needed
9 injunctive relief.

10 138. Pursuant to District Policy BP 0410,
11 The Governing Board is committed to equal opportunity for all
12 individuals in district programs and activities. District programs, and
13 activities, and practices shall be free from discrimination based on
14 gender, gender identity and expression, race, color, religion, ancestry,
15 national origin, immigration status, ethnic group, pregnancy, marital or
parental status, physical or mental disability, sexual orientation or the
perception of one or more of such characteristics. The Board shall
promote programs which ensure that any discriminatory practices are
eliminated in all district activities.

16 Any school employee who observes an incident of discrimination,
17 harassment, intimidation, or bullying or to whom such an incident is
18 reported shall report the incident to the Coordinator or principal,
whether or not the victim files a complaint.

19 139. Pursuant to District Policy 5145.3:

20 All district programs and activities within a school under the
21 jurisdiction of the superintendent of the school district shall be free
22 from discrimination, including harassment, with respect to the actual
23 or perceived ethnic group, religion, gender, gender identity, gender
24 expression, color, race, ancestry, national origin, and physical or
25 mental disability, age or sexual orientation. The Governing Board
26 desires to provide a safe school environment that allows all students
27 equal access to District programs and activities regardless of actual or
28 perceived ethnicity, religion, gender, gender identity, gender
expression, color, race, ancestry, national origin, physical or mental
disability, sexual orientation, or any other classification protected by
law.

1 ***The District’s Discrimination and Harassment of FCA Student***
2 ***Representatives is ongoing, and FCA and the Student FCA Chapter of***
3 ***Pioneer are entitled to prospective relief.***

4 140. Defendants’ actions continue to discriminate against the Pioneer Student
5 Representatives and Pioneer Student FCA Chapter and deny them benefits to which they are
6 otherwise entitled under the Equal Access Act, First Amendment, and Fourteenth Amendment.

7 141. During the 2020-2021 academic year, Pioneer High School has continued to grant
8 official recognition to student groups. The District claims that Pioneer has temporarily suspended
9 ASB funding for student groups during the 20-21 academic year, but it continues to offer official
10 recognition of student groups. Other secondary schools in the District, including Leland High
11 School, have resumed or continue ASB funding.

12 142. Since this litigation was filed, the District created an ASB Affirmation Form, which
13 the District claims it will require all officially recognized clubs to complete. See Exhibit H. The
14 District claims that in order to receive official recognition, student group leaders will be required
15 to sign the ASB Affirmation Form. The ASB Affirmation Form contains language materially
16 indistinguishable from the nondiscrimination policies under which Defendants indicated that they
17 revoked official club recognition and its benefits to the Student FCA Chapters.

18 143. The ASB Affirmation Form has been developed in response to this litigation for the
19 purposes of denying club recognition to the Student FCA Chapters because of their religious beliefs
20 and the religious content and viewpoint of their speech and meetings in violation of their rights
21 under the EAA and the First Amendment.

22 144. The District continues to recognize noncurriculum-related student groups who have
23 official positions or statements that violate the District’s nondiscrimination policy. For example,
24 the Black Student Union at Pioneer states that its mission is “to bring minority students together.”
25 Although it also states that “all students welcome!” that does not distinguish it from the Pioneer
26 FCA Student Group, where all students are also welcome. See Exhibit G (FCA Pioneer
27 constitution). Similarly, the GSA (“Gender Sexuality Alliance”) publicizes that it is “a safe space
28 for anyone in the LGBTQ+ community” and is intended to create a “group of people like them.”

1 Further, Pioneer recognizes the “Right Wing Club” which is intended to “bring all right leaning or
2 conservative students at Pioneer together.” Defendants continue to deny official club recognition
3 to the Pioneer Student FCA Chapter.

4 145. The District and Defendants similarly recognize groups that require their leaders or
5 members to affirm their agreement with the groups’ purpose, mission, or goals. For example, the
6 Harry Potter Club at Pioneer is “a safe space for Harry Potter fans to hang out and talk about the
7 Harry Potter Franchise...”. Similarly, Girls Learn International at Pioneer is for students to “focus
8 on feminist topics and believe in full equality.”

9 146. Similarly, other schools in the District continue to recognize noncurriculum-related
10 student groups that violate the District’s nondiscrimination policies. For example, at Willow Glen,
11 the Black Student Union “serves as a communication between students of African descent and other
12 minorities on campus.” Willow Glen also recognizes “Hustlin’ Honeys,” a club that is “an
13 empowering women’s club” that will “show all the beautiful young women coming together to
14 build our community stronger.”

15 147. Leland likewise recognizes noncurriculum-related student groups whose missions or
16 policies violate the District’s nondiscrimination policies. For example, Leland has approved the
17 group “Leland Women” designed to “create a tight knit community of empowered women on
18 campus.” Similarly, Leland recognizes the “Shekinah Christian Club” that is “built around teaching
19 others about Christianity.” Similarly, Leland recognizes clubs that require members or leaders to
20 promote certain viewpoints. For example, the Indian Heritage Club has a purpose “to promote
21 Indian Culture and teach our members the important aspects of it.”

22 148. Additionally, Pioneer and the District continue to violate their nondiscrimination
23 policies in ways beyond club recognition. For example, Pioneer Promotes “Girl’s Circle,” a school-
24 sponsored wellness program for students who identify as female. Girl’s Circle “addresses the
25 specialized needs of girls ages 9-18.”

26 **CONDITIONS PRECEDENT**

27 149. All conditions precedent have occurred, been performed, or were waived.
28

1 150. For all requests for declaratory relief asserted herein, a case and controversy exists
2 because Defendants have denied and continue to deny Plaintiffs’ rights, privileges, and immunities
3 secured under the United States Constitution and federal law.

4 151. All actions performed by Defendants as alleged herein were malicious, oppressive,
5 and in reckless disregard for Plaintiffs’ rights.

6 152. To the extent required by law, Plaintiffs have exhausted all administrative remedies
7 by alerting the District of the nature of their complaints through correspondence, including
8 correspondence on July 2, 2019 and January 14, 2020. The District has not timely responded to
9 Plaintiffs’ correspondence and the relief requested therein is deemed denied by law.

10 **FIRST CAUSE OF ACTION**
11 **42 U.S.C. § 1983**
Equal Access Act, 20 U.S.C. §§ 4071 et seq.

12 153. All preceding paragraphs are incorporated here by reference as if fully written
13 herein.

14 154. The Equal Access Act, 20 U.S.C. §§ 4071-4074, makes it unlawful for “any public
15 secondary school which receives Federal financial assistance and which has a limited open forum
16 to deny equal access or a fair opportunity to, or discriminate against, any students who wish to
17 conduct a meeting within that limited open forum on the basis of the religious, political,
18 philosophical, or other content of the speech at such meetings.” § 4071(a).

19 155. Pioneer, Willow Glen, and Leland are public secondary schools that receive federal
20 financial assistance and are within the jurisdiction and control of the District.

21 156. During the events alleged herein, Pioneer, Willow Glen, and Leland have each
22 allowed at least one noncurriculum-related student group to meet on school premises during
23 noninstructional time and thereby maintain a limited open forum as that term is defined within the
24 EAA. Pioneer, Willow Glen, and Leland continue to recognize noncurriculum-related student
25 groups and grant them benefits not available to unrecognized student groups.

26 157. Defendants, acting pursuant to the policies, practices, and customs of the District,
27 have revoked and continue to deny official club recognition and the benefits associated with
28 recognition to Student FCA Chapters, thereby “deny[ing] equal access or a fair opportunity to, or

1 discriminat[ing] against,” the FCA students, including Ms. Klarke, Ms. Sinclair, and the Student
2 Representatives, on the basis of the religious content of their speech. This denial of recognition
3 relegates the FCA students to second-class status and denies them access to other resources that are
4 granted to student groups which are officially recognized.

5 158. Defendants have denied and continue “to deny equal access or a fair opportunity to,
6 or discriminate against” Plaintiffs’ right to meet as a recognized student group because of the
7 religious content of their speech. This includes denying club recognition to and placing other
8 restrictions on the Student FCA Chapters because they require their leaders to agree with their
9 religious beliefs in order to preserve the religious content of their message. *See Hsu By & Through*
10 *Hsu v. Roslyn Union Free Sch. Dist. No. 3*, 85 F.3d 839, 861 (2d Cir. 1996). Defendants’ application
11 of the District’s nondiscrimination policy to the Student FCA Chapters violates the EAA on its
12 face² because the EAA’s requirement preempts state and local laws that might otherwise prevent
13 religious groups from being recognized student groups. The District’s application of its
14 nondiscrimination policy or other policies to the Student FCA Groups violates the EAA as applied
15 because the District does not enforce those policies equally, including allowing recognized student
16 clubs to limit leaders or members on the basis of gender, race, or other characteristics as well as
17 limiting leaders to those who agree with the group’s purpose, mission, message, and shared ideas.

18 159. District officials, including Defendants, recognize they are bound by the EAA’s
19 requirements but nonetheless withdrew recognition from the Student FCA Chapters and
20 subsequently refused to grant them official club recognition despite the EAA’s requirements. The
21 rights of religious and other noncurriculum-related student groups to meet and enjoy all the other
22 benefits of recognition are well-established in the law, including *Board of Education v. Mergens*,
23 496 U.S. 226 (1990), and *Prince v. Jacoby*, 303 F.3d 1074, 1086 (9th Cir. 2002) (“The School
24 District discriminates against Prince and the World Changers by denying them equal access to
25 [ASB] funds.”).

26
27 ² Plaintiffs understand that the Court dismissed Plaintiffs’ facial challenge with prejudice but include
28 facial challenge pleadings in order to preserve the argument for future proceedings and appeal.

1 160. Defendants' actions were taken pursuant to official policy, as evidenced, among other
2 things, by Principal Espiritu's citations to District policy and the District's refusal to correct its
3 actions and recognize FCA even after the illegality of its decisions was pointed out.

4 161. Defendants' actions, taken under color of state law, have denied and continue to deny
5 Plaintiffs rights and privileges secured under the EAA.

6 162. Additionally, Defendants have selectively enforced their policies, including but not
7 limited to their nondiscrimination policies, to deny recognition to student groups that wish to
8 affiliate with FCA, including the Pioneer Student FCA Chapter. The Student Representatives and
9 Pioneer Student FCA Chapter continue to seek and to be denied official recognition while other
10 student groups who similarly violate the District's nondiscrimination and other policies are granted
11 full recognition and its benefits.

12 163. Ms. Sinclair and Ms. Klarke have suffered mental anguish and the denial of their
13 rights due to Defendants' unlawful actions and seek to recover damages.

14 164. Defendants continue to deny official recognition and its benefits to student groups
15 who wish to affiliate with FCA and promote its religious beliefs, speech, and values in violation of
16 the rights of FCA, FCA's Student Representatives, and the Pioneer Student FCA Chapter, who wish
17 to promote and advance their shared religious beliefs, speech, and values at Pioneer. Injunctive
18 relief is necessary to stop this ongoing violation of the rights of FCA, its Student Representatives,
19 and the Pioneer Student FCA Chapter and to prevent irreparable harm.

20 165. Defendants' ongoing denial of recognition and its benefits to student groups affiliated
21 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
22 frustrates FCA's mission by, among other things, stigmatizing FCA and its religious beliefs and
23 intimidating students who attend meetings or events held by student groups affiliated with FCA.
24 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
25 and correspondence, in order to address and mitigate its injury caused by Defendants' illegal
26 actions.

27 166. FCA on behalf of itself and the Student Representatives seeks a declaration that
28 Defendants' actions violate the EAA and injunctive relief prohibiting future acts in violation of the

1 EAA. Without such declaratory and injunctive relief, FCA and its Student Representatives will
2 continue to be irreparably harmed.

3 **SECOND CAUSE OF ACTION**
4 **42 U.S.C § 1983**
5 **U.S. Const., amend. I, Free Speech Clause**
6 **Viewpoint Discrimination**

7 167. All preceding paragraphs are incorporated here by reference as if fully set out herein.

8 168. Governments “must not discriminate against speech on the basis of viewpoint.”
9 *Good News Club v. Milford Central Sch.*, 533 U.S. 98, 106 (2001); *Rosenberger v. Rector &*
10 *Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995) (“Viewpoint discrimination is thus an
11 egregious form of content discrimination. The government must abstain from regulating speech
12 when the specific motivating ideology or the opinion or perspective of the speaker is the rationale
13 for the restriction.”); *Lamb’s Chapel v. Center Moriches Union Sch. Dist.*, 508 U.S. 384 (1993).

14 169. Defendants and other District officials at Pioneer, Leland, and Willow Glen, acting
15 under the policies, practices, and customs of the District, recognize and grant benefits to numerous
16 student groups that meet to discuss a variety of topics, including religion, sexuality, books, and
17 serving others and the community. *See, e.g.*, ¶¶ 56, 93, 95, 97-102. These practices and policies
18 create a limited public forum to which the Student FCA Chapters and their students including Ms.
19 Klarke, Ms. Sinclair, and the Student Representatives have a right of access. Yet, these schools
20 have refused to recognize the Student FCA Chapters because of their religious viewpoints on these
21 topics. FCA and the Student FCA Chapters, whose meetings are initiated and led by student leaders
22 acting as FCA representatives, have been and are being denied recognition and its accompanying
23 benefits that the schools allow to other student groups because of Defendants’ disapproval of FCA’s
24 and the Student FCA Chapters’ religious beliefs as expressed in their religious viewpoints.

25 170. Additionally, Defendants discriminate against FCA’s and the Student FCA Chapters’
26 viewpoint because the District does not apply its nondiscrimination or club recognition policies
27 uniformly. The District recognizes, supports, and even sponsors student groups and other District
28 activities and programs that deny opportunities on the basis of belonging to an enumerated class.

1 Defendants further recognize student groups that require their leaders to support the groups’ beliefs,
2 mission, and message.

3 171. Defendants also discriminate against Plaintiffs by knowingly and intentionally
4 allowing students and faculty to harass and bully them for the purposes of chilling their speech
5 because of their religious viewpoint. Defendants’ refusal to act is intended to allow a “heckler’s
6 veto” of FCA students’ speech.

7 172. Defendants have no compelling interest in their denial of Plaintiffs’ rights. Even if
8 there were a compelling government interest, Defendants have not shown their actions are the least
9 restrictive means of achieving that interest.

10 173. Defendants’ actions were and are taken pursuant to official policy, as evidenced,
11 among other things by Principal Espiritu’s citations to District policy and the District’s refusal to
12 correct its actions and recognize FCA even after the illegality of its decisions was pointed out.

13 174. Defendants’ actions, taken under color of state law, have denied Ms. Sinclair and Ms.
14 Klarke, and continue to deny FCA and the Student Representatives, rights and privileges secured
15 under the U.S. Constitution’s First Amendment as applied to the states through the Fourteenth
16 Amendment.

17 175. Ms. Sinclair and Ms. Klarke have had their rights infringed and suffered mental
18 anguish due to Defendants’ unlawful actions and seek to recover damages.

19 176. Defendants continue to deny official recognition and its benefits to student groups
20 who wish to affiliate with FCA and promote its religious speech, beliefs, and values in violation of
21 the rights of FCA, its Student Representatives, and the Pioneer Student FCA Chapter who wish to
22 promote and advance their shared religious values at Pioneer. Injunctive relief is necessary to stop
23 this ongoing violation of the rights of FCA and its Student Representatives and to prevent
24 irreparable harm.

25 177. Defendants’ ongoing denial of recognition and its benefits to student groups
26 affiliated with FCA and continued harassment of students who attend meetings of FCA Student
27 Chapters frustrates FCA’s mission by, among other things, stigmatizing FCA and its religious
28 beliefs and intimidating students who attend meetings or events held by student groups affiliated

1 with FCA. FCA has diverted and continues to divert resources, including staff time and procuring
2 legal advice and correspondence, in order to address and mitigate its injury caused by Defendants’
3 illegal actions.

4 178. FCA seeks on behalf of itself and its Student Representatives a declaration that
5 Defendants’ actions violate the First Amendment and injunctive relief prohibiting future acts.
6 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
7 to be irreparably harmed.

8 **THIRD CAUSE OF ACTION**
9 **42 U.S.C. § 1983**
10 **U.S. Const., amend. I, Free Speech and Assembly Clauses**
11 **Right of Expressive Association**

12 179. All preceding paragraphs are incorporated here by reference as if fully set out herein.

13 180. Meetings of the Student FCA Chapters, which are initiated and led by student leaders,
14 are a means of transmitting a system of religious beliefs and values and are expressive by nature.
15 *See Boy Scouts of America v. Dale*, 530 U.S. 640, 649-50 (2000).

16 181. Plaintiff FCA, through its student leaders, including the Student Representatives, and
17 Ms. Sinclair and Ms. Klarke as student leaders of the Pioneer Student FCA Chapter, desire to
18 associate together in ways that express their Christian faith and the religious beliefs set forth in
19 FCA’s statements and governing documents.

20 182. Plaintiffs’ meetings are intended to instill, examine, and reinforce their religious
21 beliefs as expressed in FCA’s governing documents and statements of core religious beliefs and,
22 therefore, are inherently expressive of their shared religious beliefs.

23 183. Because Plaintiffs’ meetings are intended to express religious messages and religious
24 viewpoints, the Student FCA Chapter leaders, including Ms. Klarke, Ms. Sinclair, and the Student
25 Representatives, must agree with FCA’s core religious beliefs. Forcing the Student FCA Chapters
26 to accept leaders who do not share FCA’s religious beliefs runs contrary to the expressive purposes
27 of these meetings and compels Plaintiffs to adopt a message contrary to their views.

28 184. Moreover, Defendants’ actions have unconstitutionally required and continue to
require Plaintiffs to affirm or abjure a specific belief or set of beliefs. *See, e.g., West Virginia Board*

1 *of Education v. Barnette*, 319 U.S. 624, 642 (1943) (“If there is any fixed star in our constitutional
2 constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics,
3 nationalism, religion, or other matters of opinion or force citizens to confess by word or act their
4 faith therein.”). Defendants may not condition participation in a program on an organization
5 affirming or abjuring a specific set of beliefs or policy statement. *Agency for Int’l Dev. v. All. for*
6 *Open Soc’y Int’l, Inc.*, 570 U.S. 205, 218 (2013) (“By requiring recipients to profess a specific belief,
7 the Policy Requirement goes beyond defining the limits of the federally funded program to defining
8 the recipient.”).

9 185. Defendants have violated and continue to violate Plaintiffs’ right of expressive
10 association by denying recognition and its accompanying benefits to Plaintiffs because of FCA’s
11 core religious beliefs, which are shared by Ms. Sinclair, Ms. Klarke, and the Student
12 Representatives. Defendants have required and continue to require Plaintiffs to affirm beliefs with
13 which they disagree.

14 186. By penalizing the Student FCA Chapters for requiring their leaders to affirm their
15 core religious beliefs, as expressed in FCA’s statements of its core religious beliefs and other
16 governance documents, Defendants have interfered with Plaintiffs’ ability to choose their leaders
17 and have unlawfully impaired Plaintiffs’ message. *Dale*, 530 U.S. 640.

18 187. Defendants have knowingly and intentionally allowed students and faculty to harass
19 and bully Ms. Sinclair, Ms. Klarke, and other FCA students for the purpose of pressuring them to
20 renounce their religious beliefs and affirm beliefs that District officials insist they affirm.
21 Defendants continue to require this of the Pioneer Student Group and FCA’s Student
22 Representatives.

23 188. Defendants have no compelling interest in their denial of Plaintiffs’ rights. Even if
24 there were a compelling government interest, Defendants have not shown their actions are the least
25 restrictive means of achieving that interest.

26 189. Defendants’ actions were taken pursuant to official policy, as evidenced, among other
27 things by Principal Espiritu’s citations to District policy and the Defendants’ refusal to correct their
28 actions and recognize FCA even after the illegality of these actions was pointed out.

1 190. Defendants' actions, taken under color of state law, have denied and continue to deny
2 Plaintiffs rights and privileges secured under the U.S. Constitution's First Amendment as applied
3 to the states in the Fourteenth Amendment.

4 191. Ms. Sinclair and Ms. Klarke have been deprived of their rights and suffered mental
5 anguish due to Defendants' unlawful actions and seek to recover damages.

6 192. Defendants have denied and continue to deny official recognition and its benefits to
7 student groups who wish to affiliate with FCA and promote its religious values in violation of the
8 rights of FCA and its Student Representatives. Injunctive relief is necessary to stop this ongoing
9 violation of the rights of FCA and its Student Representatives and to prevent irreparable harm.

10 193. Defendants continue to deny official recognition and its benefits to student groups
11 who wish to affiliate with FCA and promote its religious values in violation of the rights of FCA
12 and its Student Representatives who wish to promote and advance their shared religious values at
13 Pioneer. Injunctive relief is necessary to stop this ongoing violation of the rights of FCA and its
14 Student Representatives and to prevent irreparable harm.

15 194. Defendants' ongoing denial of recognition and its benefits to student groups affiliated
16 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
17 frustrates FCA's mission by, among other things, stigmatizing FCA and its religious beliefs and
18 intimidating students who attend meetings or events held by student groups affiliated with FCA.
19 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
20 and correspondence, in order to address and mitigate its injury caused by Defendants' illegal
21 actions.

22 195. FCA seeks on behalf of itself and its Student Representatives a declaration that
23 Defendants' actions violate the First Amendment and injunctive relief prohibiting future acts.
24 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
25 to be irreparably harmed.

FOURTH CAUSE OF ACTION
42 U.S.C. § 1983
U.S. Const., amend. I, Religion Clauses
Free Exercise and Denial of Generally Available Benefits

196. All preceding paragraphs are incorporated here by reference as if fully written herein.

197. Plaintiffs seek to exercise their religion by gathering together as a recognized club. Under the Free Exercise Clause, “denying a generally available benefit solely on account of religious identity imposes a penalty on the free exercise of religion that can be justified only by a state interest ‘of the highest order.’” *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2019 (2017) (quoting *McDaniel v. Paty*, 435 U.S. 618, 628 (1978)).

198. Recognition as a club and all its accompanying benefits are generally available benefits for which Plaintiffs qualify within the District. Plaintiffs qualify for recognition and its attendant benefits. Nonetheless Defendants have denied Plaintiffs these generally available benefits because of their religious identity.

199. Defendants have targeted Plaintiffs for disparate treatment, including lack of club recognition and its attendant benefits, because of their religious beliefs. To the extent Defendants intend to claim that such disparate treatment is based on nondiscrimination policies, this policy is subject to individualized exceptions and falls under *Lukumi*. See *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 537 (1993).

200. Defendants’ actions were taken pursuant to official policy, as evidenced, among other things by Principal Espiritu’s citations to District policy and the District’s refusal to correct its actions and recognize FCA even after the illegality of its decisions was pointed out.

201. Defendants have no compelling interest in their denial of Plaintiffs’ rights. Even if there were a compelling government interest, Defendants have not shown their actions are the least restrictive means of achieving that interest.

202. Defendants’ actions, taken under color of state law, have denied and continue to deny Plaintiffs rights and privileges secured under the U.S. Constitution’s First Amendment as applied to the states in the Fourteenth Amendment.

1 203. Defendants continue to deny official recognition and its benefits to student groups
 2 who wish to affiliate with FCA and promote its religious beliefs in violation of the rights of FCA
 3 and its Student Representatives. Injunctive relief is necessary to stop this ongoing violation of the
 4 rights of FCA and its Student Representatives and to prevent irreparable harm.

5 204. Ms. Sinclair and Ms. Klarke have been deprived of their rights and suffered mental
 6 anguish due to Defendants’ unlawful actions and seek to recover damages.

7 205. Defendants continue to deny official recognition and its benefits to student groups
 8 who wish to affiliate with FCA and promote its religious beliefs in violation of the rights of FCA
 9 and its Student Representatives who wish to promote and advance their shared religious beliefs at
 10 Pioneer. Injunctive relief is necessary to stop this ongoing violation of the rights of FCA and its
 11 Student Representatives and to prevent irreparable harm.

12 206. Defendants’ ongoing denial of recognition and its benefits to student groups affiliated
 13 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
 14 frustrates FCA’s mission by, among other things, stigmatizing FCA and its religious beliefs and
 15 intimidating students who attend meetings or events held by student groups affiliated with FCA.
 16 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
 17 and correspondence, in order to address and mitigate its injury caused by Defendants’ illegal
 18 actions.

19 207. FCA seeks on behalf of itself and its Student Representatives a declaration that
 20 Defendants’ actions violate the First Amendment and injunctive relief prohibiting future acts.
 21 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
 22 to be irreparably harmed.

23 **FIFTH CAUSE OF ACTION**
 24 **42 U.S.C. § 1983**
 25 **U.S. Const., amend. I, Religion Clauses**
 Targeting of Religious Beliefs

26 208. All preceding paragraphs are incorporated here by reference as if fully written herein.
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1 209. Under the Free Exercise Clause, “a law targeting religious beliefs as such is never
2 permissible.” *Trinity Lutheran*, 137 S. Ct. at 2024 n.4; *Church of the Lukumi Babalu Aye v. City of*
3 *Hialeah*, 508 U.S. 520, 533 (1993).

4 210. Under the First Amendment, the government “cannot impose regulations that are
5 hostile to the religious beliefs of affected citizens and cannot act in a manner that passes judgment
6 upon or presupposes the illegitimacy of religious beliefs and practices.” *Masterpiece Cakeshop,*
7 *Ltd. v. Colorado Civ. Rights Comm’n*, 138 S. Ct. 1719, 1731 (2018).

8 211. Additionally, government hostility toward religion violates the Establishment Clause.
9 *See Catholic League for Religious & Civil Rights v. City & County of San Francisco*, 624 F.3d
10 1043 (9th Cir. 2010).

11 212. Defendants have expressly stated or adopted views hostile to the religious faith of
12 FCA and its student leaders and acted pursuant to such hostile views. These views include
13 statements that FCA’s religious beliefs are shameful and hateful.

14 213. In accordance with these views, Defendants have targeted Plaintiffs for disparate
15 treatment, including lack of recognition and its attendant benefits, as well as knowingly allowing
16 or encouraging faculty and other students at the school to harass Plaintiffs for their religious beliefs
17 despite having written policies against harassment.

18 214. Defendants grant club recognition to other student groups despite those groups’
19 exclusion of members or leaders based on classes enumerated in the District’s nondiscrimination
20 policies.

21 215. Defendants have no compelling interest in their denial of Plaintiffs’ rights. Even if
22 there were a compelling government interest, Defendants have not shown their actions are the least
23 restrictive means of achieving that interest.

24 216. Defendants’ actions reflect animus toward Plaintiffs’ religious beliefs.

25 217. Defendants’ actions were taken pursuant to official policy, as evidenced, among other
26 things by Principal Espiritu’s citations to District policy, coordination with students hostile to
27 FCA’s religious values, and refusal to require Mr. Glasser to take down his display disparaging
28 FCA’s religious values.

1 218. Defendants’ actions, taken under color of state law, have denied Plaintiffs rights and
2 privileges secured under the U.S. Constitution’s First Amendment as applied to the states in the
3 Fourteenth Amendment.

4 219. Ms. Sinclair and Ms. Klarke have been deprived of their rights and suffered mental
5 anguish due to Defendants’ unlawful actions and seek to recover damages.

6 220. Defendants continue to deny official recognition and its benefits to student groups
7 who wish to affiliate with FCA and promote its religious beliefs in violation of the rights of FCA
8 and its Student Representatives who wish to promote and advance their shared religious beliefs at
9 Pioneer. Injunctive relief is necessary to stop this ongoing violation of the rights of FCA and its
10 Student Representatives and to prevent irreparable harm.

11 221. Defendants’ ongoing denial of recognition and its benefits to student groups affiliated
12 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
13 frustrates FCA’s mission by, among other things, stigmatizing FCA and its religious beliefs and
14 intimidating students who attend meetings or events held by student groups affiliated with FCA.
15 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
16 and correspondence, in order to address and mitigate its injury caused by Defendants’ illegal
17 actions.

18 222. FCA seeks on behalf of itself and its Student Representatives a declaration that
19 Defendants’ actions violate the First Amendment and injunctive relief prohibiting future acts.
20 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
21 to be irreparably harmed.

22 **SIXTH CAUSE OF ACTION**
23 **42 U.S.C. § 1983**
24 **U.S. Const. amend. I – Religion Clauses**
25 **Ministerial Exception & Internal Autonomy**

26 223. All preceding paragraphs are incorporated here by reference as if fully written herein.

27 224. Under the Religion Clauses of the First Amendment, “it is impermissible for the
28 government to contradict a church’s determination of who can act as its ministers.” *Hosanna-Tabor
Evangelical Lutheran Church & School v. EEOC*, 565 U.S. 171, 185 (2012).

1 225. Ministers include “those who serve in positions of leadership, those who perform
2 important functions in worship services and in the performance of religious ceremonies and rituals,
3 and those who are entrusted with teaching and conveying the tenets of the faith to the next
4 generation.” *Id.* at 200 (Alito, J., concurring).

5 226. Similarly, religious organizations have the “power to decide for themselves, free from
6 state interference, matters of church government as well as those of faith and doctrine.” *Kedroff v.*
7 *Saint Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952).

8 227. FCA is an international Christian ministry that includes student leaders within its
9 leadership structure.

10 228. At a minimum, FCA student leaders, which include or have included Ms. Klarke, Ms.
11 Sinclair, and the Student Representatives, have titles denoting leadership, hold themselves out as
12 FCA leaders, and perform distinctly religious functions, including leading Student FCA Chapter
13 meetings in prayer, worship, and Bible study.

14 229. FCA student leaders are the primary way in which FCA fulfills its religious mission
15 on public school campuses. FCA leaders must agree with FCA’s religious beliefs, including
16 agreement with its statement of core religious beliefs and other governing documents, in order to
17 express the religious message and live in accordance with those beliefs. Ms. Klarke, Ms. Sinclair,
18 and the Student Representatives agree that the requirements are necessary to preserve and transmit
19 the content and character of their shared religious beliefs and mission to those who attend their
20 meetings and other students and faculty at Pioneer.

21 230. By denying club recognition to FCA because of its religious beliefs, including its
22 leadership requirements, Defendants interfered with and continue to interfere with Plaintiffs’ First
23 Amendment rights to select their religious leaders and preserve the religious content and viewpoint
24 of their religious message.

25 231. To the extent Defendants have denied recognition to Plaintiffs due to their religious
26 leadership criteria, Defendants impermissibly entangle themselves with Plaintiffs’ religious beliefs
27 and internal religious affairs.

1 232. Defendants’ actions were taken pursuant to official policy, as evidenced, among other
2 things by Principal Espiritu’s citations to District policy and the District’s refusal to correct its
3 actions and recognize FCA even after the illegality of its decisions was pointed out.

4 233. Defendants’ actions, taken under color of state law, have denied Plaintiffs rights and
5 privileges secured under the U.S. Constitution’s First Amendment as applied to the states in the
6 Fourteenth Amendment.

7 234. Ms. Sinclair and Ms. Klarke have had their rights infringed and suffered mental
8 anguish due to Defendants’ unlawful actions as described herein and seek to recover damages for
9 the same.

10 235. Defendants continue to deny official recognition and its benefits to student groups
11 who wish to affiliate with FCA and promote its religious beliefs, speech, and values in violation of
12 the rights of FCA and its Student Representatives who wish to promote and advance their shared
13 religious beliefs, speech, and values at Pioneer. Injunctive relief is necessary to stop this ongoing
14 violation of the rights of FCA and its Student Representatives and to prevent irreparable harm.

15 236. Defendants’ ongoing denial of recognition and its benefits to student groups affiliated
16 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
17 frustrates FCA’s mission by, among other things, stigmatizing FCA and its religious beliefs and
18 intimidating students who attend meetings or events held by student groups affiliated with FCA.
19 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
20 and correspondence, in order to address and mitigate its injury caused by Defendants’ illegal
21 actions.

22 237. FCA seeks on behalf of itself and its Student Representatives a declaration that
23 Defendants’ actions violate the First Amendment and injunctive relief prohibiting future acts.
24 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
25 to be irreparably harmed.

SEVENTH CAUSE OF ACTION
42 U.S.C. § 1983
U.S. Const., amend. I – Religion Clauses
Denominational Discrimination

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238. All preceding paragraphs are incorporated here by reference as if fully written herein.

239. As the Supreme Court held in *Larson v. Valente*, “[t]he clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another.” 456 U.S. 228, 244 (1982).

240. Defendants have officially recognized and continue to officially recognize a number of religious or atheistic student groups, including a Muslim Club and Shekinah Christian Club at Leland, The Satanic Temple Club, Pioneers for Christ, and the Communism Club at Pioneer, and Jewish Cultural Club and Christian Club at Willow Glen, and give them various benefits of recognition that are not given the Student FCA Chapters. Defendants will not recognize Student FCA Chapters because it disagrees with their religious beliefs.

241. Defendants and District officials have indicated they would grant full recognition to the Student FCA Chapters if they agree to change their religious beliefs and affirmations. For example, officials at Willow Glen told students that the District would recognize a new religious student club as long as it was not associated with FCA.

242. Defendants’ actions were taken pursuant to official policy, as evidenced, among other things by Principal Espiritu’s citations to District policy and the District’s refusal to correct its actions and recognize FCA even after the illegality of its decisions was pointed out.

243. Defendants’ actions, taken under color of state law, have denied Plaintiffs rights and privileges secured under the U.S. Constitution’s First Amendment as applied to the states in the Fourteenth Amendment.

244. Ms. Sinclair and Ms. Klarke have had their rights infringed and suffered mental anguish due to Defendants’ unlawful actions as described herein and seek to recover damages for the same.

245. Defendants continue to deny official recognition and its benefits to student groups who wish to affiliate with FCA and promote its religious beliefs, speech, and values in violation of

1 the rights of FCA and its Student Representatives who wish to promote and advance their shared
2 religious beliefs, speech, and values at Pioneer. Injunctive relief is necessary to stop this ongoing
3 violation of the rights of FCA and its Student Representatives and to prevent irreparable harm.

4 246. Defendants' ongoing denial of recognition and its benefits to student groups affiliated
5 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
6 frustrates FCA's mission by, among other things, stigmatizing FCA and its religious beliefs and
7 intimidating students who attend meetings or events held by student groups affiliated with FCA.
8 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
9 and correspondence, in order to address and mitigate its injury caused by Defendants' illegal
10 actions.

11 247. FCA seeks on behalf of itself and its Student Representatives a declaration that
12 Defendants' actions violate the First Amendment and injunctive relief prohibiting future acts.
13 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
14 to be irreparably harmed.

15 **EIGHTH CAUSE OF ACTION**
16 **42 U.S.C § 1983**
17 **U.S. Const., amend. I – Religion Clauses**
Government Hostility Toward Religion

18 248. All preceding paragraphs are incorporated here by reference as if fully written herein.

19 249. The First Amendment forbids an official purpose to disapprove of a particular
20 religion or of religion in general. *See Catholic League for Religious & Civil Rights v. City & Cty.*
21 *of San Francisco*, 624 F.3d 1043, 1054 (9th Cir. 2010).

22 250. Mr. Glasser, while in his capacity as a teacher, displayed a message specifically
23 targeted at FCA's religious beliefs and expressed disapproval of FCA's religious beliefs. Mr.
24 Glasser posted these statements on the whiteboard in his classroom. Mr. Glasser's message
25 disapproving FCA's religious beliefs was highly visible to his students during classes for several
26 days. Ms. Klarke was a student of Mr. Glasser and in his classroom when the hostile message was
27 displayed. Ms. Sinclair also was subjected to Mr. Glasser's whiteboard statement. Mr. Glasser
28 spoke as a government employee, and any reasonable person would have understood Mr. Glasser

1 to be speaking as a government employee for purposes of the Establishment Clause. *See Kennedy*
2 *v. Bremerton Sch. Dist.*, 869 F.3d 813, 827 (9th Cir. 2017) (noting that teachers are necessarily
3 government speakers when they speak at school in the presence of students in a capacity one might
4 reasonably view as official). Mr. Glasser intended that his statement would show disapproval of
5 the religious beliefs of FCA and students involved in a Student FCA Chapter, including Ms. Klarke
6 and Ms. Sinclair.

7 251. Defendants adopted Mr. Glasser's hostility towards FCA's religious beliefs,
8 including by refusing to require Mr. Glasser to take down the display despite having knowledge of
9 it. As a result, the District revoked recognition of the Student FCA Chapters due to its disfavor of
10 their religious beliefs. On multiple occasions, District officials indicated that they would grant the
11 FCA students recognition if they disavowed FCA's religious beliefs. Defendants' statements and
12 actions were intended to and had the effect of making Plaintiffs feel like outsiders in their own
13 community.

14 252. Mr. Glasser and Principal Espiritu openly discussed strategies to remove the Student
15 FCA Chapters from the District entirely because of their hostility towards the religious beliefs of
16 the Student FCA Chapters and the students who affirm those beliefs.

17 253. Defendants' actions were taken pursuant to official policy, as evidenced, among other
18 things by Principal Espiritu's citations to District policy, coordination with students hostile to
19 FCA's religious values, and refusal to require Mr. Glasser to take down his display disparaging
20 FCA's religious values.

21 254. Defendants' actions, taken under color of state law, have denied Plaintiffs rights and
22 privileges secured under the U.S. Constitution's First Amendment as applied to the states in the
23 Fourteenth Amendment.

24 255. Ms. Sinclair and Ms. Klarke have suffered deprivation of constitutional rights and
25 mental anguish due to Defendants' unlawful actions as described herein and seek to recover
26 damages for the same.

27 256. Defendants continue to deny official recognition and its benefits to student groups
28 who wish to affiliate with FCA and promote its religious beliefs, speech, and values in violation of

1 the rights of FCA and its Student Representatives who wish to promote and advance their shared
2 religious beliefs, speech, and values at Pioneer. Injunctive relief is necessary to stop this ongoing
3 violation of the rights of FCA and its Student Representatives and to prevent irreparable harm.

4 257. Defendants' ongoing denial of recognition and its benefits to student groups affiliated
5 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
6 frustrates FCA's mission by, among other things, stigmatizing FCA and its religious beliefs and
7 intimidating students who attend meetings or events held by student groups affiliated with FCA.
8 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
9 and correspondence, in order to address and mitigate its injury caused by Defendants' illegal
10 actions.

11 258. FCA seeks on behalf of itself and its Student Representatives a declaration that
12 Defendants' actions violate the First Amendment and injunctive relief prohibiting future acts.
13 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
14 to be irreparably harmed.

15 **NINTH CAUSE OF ACTION**
16 **42 U.S.C § 1983**
17 **U.S. Const., amend. XIV – Equal Protection**
18 **Denial of Equal Protection**

19 259. All preceding paragraphs are incorporated here by reference as if fully written herein.

20 260. Defendants have penalized the Student FCA Chapters because of their religious
21 beliefs by denying them recognition and its attendant benefits because of their religious beliefs
22 while granting recognition and its attendant benefits to other similarly situated student organizations
23 that do not share Plaintiffs' religious beliefs.

24 261. Defendants' refusal to protect the legal right of the FCA students to meet as a
25 recognized student organization with all the benefits attendant on recognition while according other
26 student organizations their legal right to meet as recognized student organizations with all the
27 benefits attendant on recognition violates the Equal Protection Clause of the Fourteenth
28 Amendment.

1 262. Defendants have knowingly and intentionally allowed students and faculty to harass
2 and bully Ms. Sinclair, Ms. Klarke, and other FCA students in violation of the District’s anti-
3 harassment and anti-bullying policies for the purpose of pressuring them to renounce their religious
4 beliefs and affirm beliefs that District officials insist they affirm. Defendants continue to require
5 this of the Pioneer Student Group and FCA’s Student Representatives. *See Flores v. Morgan Hill*
6 *Unified Sch. Dist.*, 324 F.3d 1130 (9th Cir. 2003).

7 263. Defendants’ actions were taken pursuant to official policy, as evidenced, among other
8 things, by Principal Espiritu’s citations to District policy, and refusal to require Mr. Glasser to take
9 down his display disparaging FCA’s religious values.

10 264. Defendants’ actions, taken under color of state law, have denied Plaintiffs rights and
11 privileges secured under the U.S. Constitution’s Fourteenth Amendment.

12 265. Ms. Sinclair and Ms. Klarke have suffered deprivation of constitutional rights and
13 mental anguish due to Defendants’ unlawful actions and seek to recover damages.

14 266. Defendants continue to deny official recognition and its benefits to student groups
15 who wish to affiliate with FCA and promote its religious beliefs, speech, and values in violation of
16 the rights of FCA and its Student Representatives who wish to promote and advance their shared
17 religious beliefs, speech, and values at Pioneer. Injunctive relief is necessary to stop this ongoing
18 violation of the rights of FCA and its Student Representatives and to prevent irreparable harm.

19 267. Defendants’ ongoing denial of recognition and its benefits to student groups affiliated
20 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
21 frustrates FCA’s mission by, among other things, stigmatizing FCA and its religious beliefs and
22 intimidating students who attend meetings or events held by student groups affiliated with FCA.
23 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
24 and correspondence, in order to address and mitigate its injury caused by Defendants’ illegal
25 actions.

26 268. FCA seeks on behalf of itself and its Student Representatives a declaration that
27 Defendants’ actions violate the First Amendment and injunctive relief prohibiting future acts.
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1 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
2 to be irreparably harmed.

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4 **TENTH CAUSE OF ACTION**
5 **42 U.S.C § 1983**
6 **U.S. Const., amend. I, Free Speech Clause**
7 **Compelled Speech**

8 269. All preceding paragraphs are incorporated here by reference as if fully written
9 herein.

10 270. Public school officials may not compel students to affirm or abjure a specific belief or
11 set of beliefs. *See, e.g., West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943) (“If
12 there is any fixed star in our constitutional constellation, it is that no official, high or petty, can
13 prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or
14 force citizens to confess by word or act their faith therein.”). Accordingly, government officials may
15 not condition participation in a program on an organization affirming or abjuring a specific set of
16 beliefs or policy statement. *Agency for Int’l Dev. v. All. for Open Soc’y Int’l, Inc.*, 570 U.S. 205, 218
17 (2013) (“By requiring recipients to profess a specific belief, the Policy Requirement goes beyond
18 defining the limits of the federally funded program to defining the recipient.”).

19 271. Defendants and other District officials at Pioneer, Leland, and Willow Glen, acting
20 under the policies, practices, and customs of the District, have denied recognition and its
21 accompanying benefits to the Student FCA Chapters because of their affirmation of their religious
22 beliefs, their refusal to abjure their religious beliefs, or their refusal to affirm beliefs that District
23 officials insist they affirm.

24 272. Defendants and other District officials at Pioneer, Leland, and Willow Glen, acting
25 under the policies, practices, and customs of the District, have conditioned recognition and its
26 accompanying benefits on the Student FCA Chapters’ abjuration of their religious beliefs or their
27 affirmation of beliefs that the District officials insist they affirm.

28 273. Defendants have knowingly and intentionally allowed students and faculty to harass
and bully the FCA students for the purpose of pressuring them to abjure their religious beliefs or
affirm beliefs that District officials insist they affirm.

1 274. Defendants' actions were taken pursuant to official policy, as evidenced, among other
2 things by Principal Espiritu's citations to District policy and the District's refusal to correct its
3 actions and recognize FCA even after the illegality of its decisions was pointed out.

4 275. Defendants' actions, taken under color of state law, have denied Plaintiffs rights and
5 privileges secured under the U.S. Constitution's First Amendment as applied to the states through
6 the Fourteenth Amendment.

7 276. Ms. Sinclair and Ms. Klarke have had their rights infringed and suffered mental
8 anguish due to Defendants' unlawful actions and seek to recover damages.

9 277. Defendants continue to deny official recognition and its benefits to student groups
10 who wish to affiliate with FCA and promote its religious beliefs, speech, and values in violation of
11 the rights of FCA and its Student Representatives who wish to promote and advance their shared
12 religious beliefs, speech, and values at Pioneer. Injunctive relief is necessary to stop this ongoing
13 violation of the rights of FCA and its Student Representatives and to prevent irreparable harm.

14 278. Defendants' ongoing denial of recognition and its benefits to student groups affiliated
15 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
16 frustrates FCA's mission by, among other things, stigmatizing FCA and its religious beliefs and
17 intimidating students who attend meetings or events held by student groups affiliated with FCA.
18 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
19 and correspondence, in order to address and mitigate its injury caused by Defendants' illegal
20 actions.

21 279. FCA seeks on behalf of itself and its Student Representatives a declaration that
22 Defendants' actions violate the First Amendment and injunctive relief prohibiting future acts.
23 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
24 to be irreparably harmed.

ELEVENTH CAUSE OF ACTION
42 U.S.C § 1983
U.S. Const., amend. I – Free Speech and Assembly Clauses
Unconstitutional Conditions

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4 280. All preceding paragraphs are incorporated here by reference as if fully written
5 herein.

6 281. Government entities and officials may “not deny a benefit to a person on a basis that
7 infringes his constitutionally protected interests—especially, his interest in freedom of speech. For
8 if the government could deny a benefit to a person because of his constitutionally protected speech
9 or associations, his exercise of those freedoms would in effect be penalized and inhibited.” *Perry*
10 *v. Sindermann*, 408 U.S. 593, 597 (1972).

11 282. Defendants have created a limited public forum for students by allowing students to
12 form clubs and granting benefits associated with student clubs. *See Prince*, 303 F.3d at 1090-91.
13 Plaintiffs have a free speech and associational right to promote their religious views in this forum.

14 283. Defendants have unconstitutionally conditioned club recognition and its attendant
15 benefits on Plaintiffs’ foregoing their constitutional rights to associate and speak in support of their
16 religious beliefs.

17 284. Defendants’ actions were taken pursuant to official policy, as evidenced, among other
18 things by Principal Espiritu’s citations to District policy and the District’s refusal to correct its
19 actions and recognize FCA even after the illegality of its decisions was pointed out.

20 285. Defendants’ actions, taken under color of state law, have denied Plaintiffs rights and
21 privileges secured under the U.S. Constitution’s First Amendment as applied to the states through
22 the Fourteenth Amendment.

23 286. Ms. Sinclair and Ms. Klarke have had their rights infringed and suffered mental
24 anguish due to Defendants’ unlawful actions and seek to recover damages.

25 287. Defendants continue to deny official recognition and its benefits to student groups
26 who wish to affiliate with FCA and promote its religious beliefs, speech, and values in violation of
27 the rights of FCA and its Student Representatives who wish to promote and advance their shared
28

1 religious beliefs, speech, and values at Pioneer. Injunctive relief is necessary to stop this ongoing
2 violation of the rights of FCA and its Student Representatives and to prevent irreparable harm.

3 288. Defendants’ ongoing denial of recognition and its benefits to student groups affiliated
4 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
5 frustrates FCA’s mission by, among other things, stigmatizing FCA and its religious beliefs and
6 intimidating students who attend meetings or events held by student groups affiliated with FCA.
7 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
8 and correspondence, in order to address and mitigate its injury caused by Defendants’ illegal
9 actions.

10 289. FCA seeks on behalf of itself and its Student Representatives a declaration that
11 Defendants’ actions violate the First Amendment and injunctive relief prohibiting future acts.
12 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
13 to be irreparably harmed.

14 **TWELFTH CAUSE OF ACTION**
15 **42 U.S.C § 1983**
16 **U.S. Const., amend. I – Free Speech Clause**
17 **Retaliation**

18 290. All preceding paragraphs are incorporated here by reference as if fully written herein.

19 291. The Government cannot retaliate against persons because of their exercise of their
20 constitutional rights. *See, e.g., O’ Brien v. Wiley*, 818 F.3d 920, 932-33 (9th Cir. 2016).

21 292. Plaintiffs’ meetings of the Student FCA Chapters and the promotion of their religious
22 views at those meetings are speech protected by the Equal Access Act and First Amendment.

23 293. Because of Plaintiffs’ exercise of their First Amendment rights, Defendants denied
24 Plaintiffs club recognition and the benefits of club recognition, sought to shame students in the
25 classroom, and knowingly allowed and facilitated harassment of Plaintiffs and other members of
26 the Student FCA Chapters.

27 294. Defendants’ actions would chill persons of ordinary firmness from continuing to
28 engage in the protected activity.

1 295. Defendants’ actions were motivated by their opposition to Plaintiffs’ meetings and
2 speech promoting their religious beliefs and sought to chill them.

3 296. Defendants’ actions were taken pursuant to official policy, as evidenced, among other
4 things by Principal Espiritu’s citations to District policy and the District’s refusal to correct its
5 actions and recognize FCA even after the illegality of its decisions was pointed out.

6 297. Defendants’ actions, taken under color of state law, have denied Plaintiffs rights and
7 privileges secured under the U.S. Constitution’s First Amendment as applied to the states through
8 the Fourteenth Amendment.

9 298. Ms. Sinclair and Ms. Klarke have had their rights infringed and suffered mental
10 anguish due to Defendants’ unlawful actions and seek to recover damages.

11 299. Defendants continue to deny official recognition and its benefits to student groups
12 who wish to affiliate with FCA and promote its religious beliefs, speech, and values in violation of
13 the rights of FCA and its Student Representatives who wish to promote and advance their shared
14 religious beliefs, speech, and values at Pioneer. Injunctive relief is necessary to stop this ongoing
15 violation of the rights of FCA and its Student Representatives and to prevent irreparable harm.

16 300. Defendants’ ongoing denial of recognition and its benefits to student groups affiliated
17 with FCA and continued harassment of students who attend meetings of FCA Student Chapters
18 frustrates FCA’s mission by, among other things, stigmatizing FCA and its religious beliefs and
19 intimidating students who attend meetings or events held by student groups affiliated with FCA.
20 FCA has diverted and continues to divert resources, including staff time and procuring legal advice
21 and correspondence, in order to address and mitigate its injury caused by Defendants’ illegal
22 actions.

23 301. FCA seeks on behalf of itself and its Student Representatives a declaration that
24 Defendants’ actions violate the First Amendment and injunctive relief prohibiting future acts.
25 Without such declaratory and injunctive relief, FCA and its Student Representatives will continue
26 to be irreparably harmed.

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DEMAND FOR JURY TRIAL

Plaintiffs demand that the Court set this matter for trial before a jury of their peers.

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PRAYER FOR RELIEF

Wherefore, Plaintiffs request that the Court:

a. Set this matter on its docket and schedule it for trial in front of a jury of Plaintiffs’ peers;

b. Declare that the Equal Access Act and the First and Fourteenth Amendments to the United States Constitution require Defendants to cease withholding official club recognition and all its attendant benefits due to Plaintiffs’ religious beliefs, including but not limited to religious leadership requirements;

c. Issue a preliminary injunction during the pendency of this action prohibiting Defendants from denying student groups who affiliate with Plaintiff FCA recognition as a recognized student group or any benefits of recognition available to other student groups because of Plaintiffs’ religious beliefs, including but not limited to religious leadership requirements, and enjoining Defendants from allowing students and faculty to harass students in the Student FCA Chapters because of their religious beliefs and/or the FCA students’ exercise of their federal statutory or constitutional right to meet to express those religious beliefs;

d. Issue a permanent injunction prohibiting Defendants from denying student groups who affiliate with Plaintiff FCA recognition as a recognized student group or any benefits of recognition available to other student groups because of Plaintiffs’ religious beliefs, including but not limited to religious leadership requirements, and enjoining Defendants from allowing students and faculty to harass students in the Student FCA Chapters because of their religious beliefs and/or the FCA students’ exercise of their federal statutory or constitutional right to meet to express those religious beliefs;

e. Award Plaintiffs Ms. Klarke and Ms. Sinclair such compensatory, punitive, and nominal damages to which they are entitled for the infringement of their rights under federal law;

f. Award Plaintiffs the costs of this action and reasonable attorney’s fees; and

g. Award all such other relief to which Plaintiffs are entitled in law or in equity.

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Respectfully Submitted,
Dated: February 18, 2021

CENTER FOR LAW & RELIGIOUS FREEDOM

By: _____/s/ Reed N. Smith
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