

1 Benjamin W. Bull, Arizona State Bar No. 009940  
Joshua W. Carden, Arizona State Bar No. 021698 (appearing PHV)  
2 Alliance Defense Fund  
3 15333 N. Pima Rd., Suite 165  
4 Scottsdale, AZ 85260  
Phone: (480) 444-0020, Fax: (480) 444-0028

5 Kevin H. Theriot, Missouri State Bar No. 55733 (appearing PHV)  
Alliance Defense Fund  
6 15660 W. 135th St.  
7 Olathe, KS 66062  
Phone: (913) 829-7755, Fax: (913) 829-7780

8 Robert H. Tyler, California State Bar No. 179572  
Alliance Defense Fund  
9 38760 Sky Canyon Drive, Suite B  
10 Murietta, CA 92563  
Phone: (951) 461-7860, Fax: (951) 461-9056

11 Terry L. Thompson, California State Bar No. 199870  
12 Law Offices of Terry L. Thompson  
13 P.O. Box 1346  
14 Alamo, CA 94507  
15 Phone (925) 855-1507  
Fax: (925) 820-6034  
(designated local counsel)

16 Attorneys for Plaintiff Stephen J. Williams

17 IN THE UNITED STATES DISTRICT COURT  
18 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
19 SAN JOSE DIVISION

20 STEPHEN J. WILLIAMS,

21 Plaintiff,

22 v.

23 PATRICIA VIDMAR, Principal of Stevens  
24 Creek School, WILLIAM BRAGG,  
25 Superintendent of Cupertino Union School  
26 District, PEARL CHENG, BEN LIAO,  
27 JOSEPHINE LUCEY, GARY MCCUE,  
GEORGE TYSON, Board members of  
Cupertino Union School District, in their  
official capacities only,

28 Defendants.

CASE NO. 5:04-CV-4946 JW PVT

**SECOND AMENDED VERIFIED  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

1 Comes now the plaintiff, Stephen J. Williams, by and through counsel, pursuant to the  
2 Federal Rules of Civil Procedure and this Court's April 28, 2005 order, and against the  
3 Defendants avers the following:

4 **I.**

5 **INTRODUCTION**

6 1. This case is about the Constitutional rights of Stephen Williams, a public school  
7 teacher and orthodox Christian. The Defendants have censored Mr. Williams' instructional  
8 speech and choices of supplemental handouts – chiefly excerpts of primary source documents  
9 from America's founding era, or from state constitutions – containing religious content because  
10 Mr. Williams is a Christian. Defendants have ordered Mr. Williams (but no other similarly  
11 situated current teacher) – not to speak about Christianity or distribute any supplemental handout  
12 unless it appears on a list of authorized handouts that applies only to Mr. Williams. This is a  
13 violation of the Fourteenth Amendment to the United States Constitution for which Mr. Williams  
14 seeks declaratory relief, injunctive relief, costs and attorneys' fees.

15 **II.**

16 **JURISDICTION AND VENUE**

17 2. This action arises under the United States Constitution, particularly the Fourteenth  
18 Amendment; and under federal law, particularly 28 U.S.C. §§ 2201, 2202 and 42 U.S.C. §§ 1983  
19 and 1988.

20 3. This Court has original jurisdiction over these federal claims by operation of 28  
21 U.S.C. §§ 1331 and 1343.

22 4. This Court has authority to issue the requested declaratory relief under 28 U.S.C.  
23 § 2201.

24 5. This Court has authority to issue the requested injunctive relief under 28 U.S.C. §  
25 1343(a)(3).

26 6. This Court is authorized to award attorneys' fees under 42 U.S.C. § 1988.

27 7. Venue is proper under 28 U.S.C. § 1391 in the Northern District of California  
28 because this claim arose there, and the parties reside within the District.

1 **III.**

2 **INTRADISTRICT ASSIGNMENT**

3 8. Pursuant to L.R. 3-2(e) & 3-5, this case is a civil rights case, in a non-excepted  
4 category, suitable for assignment to the San Jose division because the civil action arose in Santa  
5 Clara County.

6 **IV.**

7 **IDENTIFICATION OF PARTIES**

8 9. Plaintiff Stephen J. Williams is a resident of Mountain View, California.

9 10. Defendant Patricia Vidmar is Principal of Stevens Creek School, within the  
10 Cupertino Union School District. Among other things, this Defendant is responsible for setting  
11 the policies at Stevens Creek School and implementing the policies of Stevens Creek School and  
12 the Cupertino Union School District.

13 11. Defendant William Bragg is Superintendent of Cupertino Union School District.  
14 Among other things, this Defendant is responsible for setting and implementing policies for  
15 schools within the Cupertino Union School District.

16 12. Defendant Pearl Cheng is a member of the Board of Education of the Cupertino  
17 Union School District. Among other things, this Defendant is responsible for setting policies for  
18 schools within the Cupertino Union School District.

19 13. Defendant Ben Liao is a member of the Board of Education of the Cupertino  
20 Union School District. Among other things, this Defendant is responsible for setting policies for  
21 schools within the Cupertino Union School District.

22 14. Defendant Josephine Lucey is a member of the Board of Education of the  
23 Cupertino Union School District. Among other things, this Defendant is responsible for setting  
24 policies for schools within the Cupertino Union School District.

25 15. Defendant Gary McCue is a member of the Board of Education of the Cupertino  
26 Union School District. Among other things, this Defendant is responsible for setting policies for  
27 schools within the Cupertino Union School District.



1           28. Mr. Williams expressed to Principal Vidmar his understanding that he is not  
2 allowed to “proselytize” his personal religious beliefs to students when acting as a public school  
3 teacher.

4           29. In September 2003, at the beginning of class, a School student asked Mr.  
5 Williams “Why do we say ‘under God’ in the Pledge of Allegiance?”

6           30. Mr. Williams facilitated a short discussion among the students about the reasons  
7 for “under God” in the Pledge of Allegiance.

8           31. Mr. Williams did not attempt to influence the students’ beliefs regarding religion.

9           32. Shortly after school ended on that day, Principal Vidmar entered the classroom  
10 and asked Mr. Williams “why God was being taught” during class.

11           33. Mr. Williams explained that a student had asked a question and that he had  
12 facilitated a short discussion on the subject of “under God” in the Pledge of Allegiance.

13           34. In October 2003, during a lesson on Christopher Columbus, the textbook  
14 referenced Columbus as a “missionary” seeking to spread Christianity.

15           35. A School student asked Mr. Williams: “What’s a Christian?”

16           36. Mr. Williams replied: “Someone who follows the teachings of Jesus Christ.”

17           37. Shortly after school ended on that day, Principal Vidmar entered the classroom  
18 and asked Mr. Williams: “What are you doing talking about Jesus Christ?”

19           38. Mr. Williams explained that he had responded to a student’s direct question  
20 regarding content in the textbook and did not attempt to influence the students’ beliefs regarding  
21 Christianity.

22           39. Mr. Williams frequently supplements the district-approved textbooks with  
23 curriculum-related literature for his students to understand the topic under study.

24           40. It is not uncommon for teachers within the District to supplement District  
25 textbooks with curriculum-related literature and other handouts.

26           41. Mr. Williams chooses supplemental literature that, in his judgment as a  
27 professional educator, satisfy the California History-Social Science content standards for the fifth  
28 grade.

1           42. Many teachers employed by the District supplement the textbooks for each  
2 subject with curriculum-related literature and other handouts.

3           43. In his judgment as a professional educator, Mr. Williams cannot satisfy the  
4 California History-Social Science content standards for the fifth grade if he does not supplement  
5 the textbooks with historical literature and other appropriate handouts.

6           44. In November 2003, Mr. Williams distributed to his students a supplemental  
7 activity assignment that he had used in previous years in conjunction with the “The Lion, the  
8 Witch, and the Wardrobe” by C.S. Lewis, which is on the school’s approved reading list.

9           45. One of the nine possible activities in the supplement – Mr. Williams asked the  
10 students to choose five – asked students to discuss Mr. Lewis’ intention to write the book as a  
11 Christian allegory.

12           46. Aware of Principal Vidmar’s quick reaction to the student-initiated discussion of  
13 “under God” and the mention of “Jesus Christ” in Mr. Williams’ classroom, Mr. Williams  
14 proactively gave a copy of the activity assignment to Principal Vidmar.

15           47. Visibly annoyed, Principal Vidmar asked Mr. Williams: “What are you doing?”

16           48. Mr. Williams explained that he had used the same handout in previous years with  
17 no complaints.

18           49. Principal Vidmar then approved the C.S. Lewis activity assignment.

19           50. In late November 2003, aware of Principal Vidmar’s quick reaction to the  
20 student-initiated discussion of “under God,” the mention of “Jesus Christ,” and the C.S. Lewis  
21 activity assignment, Mr. Williams informed Principal Vidmar that he planned to distribute a  
22 “Myth/Fact” handout about Thanksgiving from The History Channel website and a handout  
23 containing President Bush’s Thanksgiving proclamation.

24           51. Because of Principal Vidmar’s reactions in the past, Mr. Williams also invited  
25 Principal Vidmar to observe the lesson if she so chose.

26           52. Principal Vidmar approved the lesson and came to observe the lesson where Mr.  
27 Williams distributed these handouts. Mr. Williams went through the “Myth/Fact” handout with  
28 the students, and then read portions of President Bush’s Thanksgiving proclamation.

1           53.     In December 2003 and January 2004, Mr. Williams presented a series of lessons  
2 on the various winter holidays. Mr. Williams instructed his students that the origin of the word  
3 “holiday” comes from the words “holy day.” Each student was to pick a holiday and write a  
4 report about it. Mr. Williams facilitated student discussion of each holiday – Ramadan, Dewali,  
5 Kwanzaa, Hanukkah, Christmas, and the Chinese New Year – usually one discussion per day.

6           54.     Mr. Williams received no complaints from Principal Vidmar nor anyone else  
7 about the holiday assignment, despite the religious connotations of several of the holidays.

8           55.     In April 2004, Mr. Williams distributed an Easter Card to school staff and fellow  
9 teachers. The Card contained ideas obtained from an education website for ways teachers could  
10 inform students about the Easter holiday in the classroom without violating the Establishment  
11 Clause of the First Amendment to the United States Constitution.

12          56.     Mr. Williams prepared an Easter activity sheet for students, with ideas similar to  
13 those found in the Easter Card, and submitted it to Principal Vidmar for approval.

14          57.     On April 7, 2004, Principal Vidmar denied the Easter activity sheet via email,  
15 stating that “Easter and Christianity should not be part of your classroom instruction or  
16 discussions.”

17          58.     In the same email, Principal Vidmar for the first time wrongly accused Mr.  
18 Williams of “being insensitive to our diverse religious community by insisting on focusing on  
19 your own beliefs in the classroom.”

20          59.     Principal Vidmar provided no specific complaints or examples in the email to  
21 support her accusation.

22          60.     On May 6, 2004, Mr. Williams provided students with a handout containing the  
23 history of the National Day of Prayer on one side of the page, and President Bush’s proclamation  
24 of a Day of Prayer on the other.

25          61.     A parent with a student in Mr. Williams’ class emailed a complaint about this  
26 handout to Mr. Williams and to Principal Vidmar.

27          62.     Mr. Williams responded to the parent via email, explaining that he had included  
28 the document during the class lessons about George Washington and the first Continental

1 Congress as an example of the historical integration of prayer into the society of the founding  
2 era.

3           63. On May 11, 2004, Principal Vidmar issued a memo to Mr. Williams stating, *inter*  
4 *alia*, that “[i]t is not appropriate for you to be sending home material of a religious nature to your  
5 students and their families.” The memo also states: “I . . . am, hereby, directing you to stop  
6 sending out materials of a religious nature with your students. I am directing you to provide me  
7 with an ‘advance’ copy of materials you will be sending home at least two days prior to their  
8 being sent out so I can make sure that the materials will not be of concern to the parents or  
9 violate the separation of religion and public education.” (emphasis added).

10           64. During the meeting with Principal Vidmar where Mr. Williams received the May  
11 11, 2004 memo, Mr. Williams expressed his continued desire to follow all of the rules of the  
12 school and district, and to comply with federal and state law regarding the discussion of religion  
13 in public schools.

14           65. On May 14, 2004, Mr. Williams informed Principal Vidmar that his students were  
15 experiencing confusion over the “separation of church and state.” He requested permission to  
16 distribute a number of handouts to his students as part of a forty-five (45) minute lesson to  
17 demonstrate the founder’s beliefs about religion, and how those beliefs influenced the way the  
18 United States government was formed. These documents included:

- 19           a. “American Independence was Achieved Upon the Principles of Christianity” by  
20           John Adams;
- 21           b. “What Great Leaders Have Said About the Bible” – author unknown;
- 22           c. Letter, “To the Officers of the First Brigade of the Third Division of the Militia of  
23           Massachusetts” (October 1, 1798), by John Adams,
- 24           d. “Religious Clauses in State Constitutions” – author unknown;
- 25           e. “John Adam’s Diary,” (selected entries Feb. 22, 1756 – Aug. 24, 1796);
- 26           f. “George Washington’s Prayer Journal,” from William J. Johnson, *George*  
27           *Washington: the Christian* 24-35 (1919);

- 1 g. "The Conversion of Quaker Isaac Potts to the Cause of Patriotism through the  
2 Observation of George Washington's Prayer," from Rev. Nathaniel Randolph  
3 Snowden, *Diary and Remembrances*;
- 4 h. "George Washington's Adopted Daughter Discusses Washington's Religious  
5 Character," by Nelly Custis-Lewis;
- 6 i. "The First Prayer in Congress," by Jacob Duche (Sept. 7, 1774); and  
7 j. "Commentaries on the Laws of England," by William Blackstone (selected  
8 excerpts).

9 66. Each of these historical documents contains religious references.

10 67. Each of these historical documents has non-religious, educational value.

11 68. None of these documents contains exhortations for the students to follow  
12 Christianity or Mr. Williams' personal religious beliefs.

13 69. Mr. Williams did not intend to distribute all of these documents to students as part  
14 of the short lesson he was preparing.

15 70. On May 14, 2004, Principal Vidmar denied permission to distribute or discuss  
16 these documents.

17 71. In accordance with Principal Vidmar's instructions, Mr. Williams did not handout  
18 or discuss these documents.

19 72. On May 18, 2004, Mr. Williams emailed Principal Vidmar seeking permission to  
20 distribute three documents as part of a short lesson on why religious language is in the  
21 Declaration of Independence. These included excerpts from

- 22 a. the Declaration of Independence,  
23 b. William Penn's "Frame of Government"; and  
24 c. Samuel Adams' "The Rights of the Colonists."

25 73. Each of these historical documents contains religious references.

26 74. Each of these historical documents have non-religious, historical value.

27 75. None of these documents contains exhortations for the students to follow  
28 Christianity or Mr. Williams' personal religious beliefs.

1           76.     In the May 18, 2004 email, Mr. Williams reiterated to Principal Vidmar his desire  
2 for the students to understand why many of our historical documents contain religious references  
3 and how the founders' religious beliefs influenced the formation of our government. Mr.  
4 Williams also expressed his feeling that everything religious was being censored from his  
5 curriculum because of his personal beliefs. Mr. Williams also repeated his desire to follow all of  
6 the rules of the school and district, and to comply with federal and state law regarding the  
7 discussion of religion in public schools.

8           77.     In a memo dated May 19, 2004, Principal Vidmar denied Mr. Williams' request to  
9 distribute the three documents, stating, *inter alia*, that "[t]he materials you submitted yesterday  
10 are once again of religious nature and are not appropriate to be used with your fifth grade  
11 students because the district honors separation of church and state in school."

12           78.     In the May 19, 2004 memo, Principal Vidmar also instructed Mr. Williams to  
13 submit his weekly lesson plans to her for the remainder of the school year.

14           79.     On May 21, 2004, Principal Vidmar called for a meeting with Mr. Williams to be  
15 held on May 27, 2004.

16           80.     On May 27, 2004, Principal Vidmar issued a memo ordering him, *inter alia*, not  
17 to emphasize his religion in the classroom and to "cease seeking Christian materials to present as  
18 supplementary materials and resources" for his students." The memo also states: "If any future  
19 incidents occur, you will be subject to formal discipline up to and including dismissal."

20           81.     On June 22, 2004, Mr. Williams responded to the May 27, 2004 memo by  
21 pointing out that he had never actually distributed to students any of the documents referenced in  
22 the memo except for the National Day of Prayer handout. Mr. Williams also repeated his desire  
23 to follow all of the rules of the school and district, and to comply with federal and state law  
24 regarding the discussion of religion in public schools.

25           82.     On September 29, 2004, at Mr. Williams' "Goals conference," Principal Vidmar  
26 issued a packet of materials to Mr. Williams and directed that Mr. William's future social studies  
27 handouts must only come from that packet of materials.

1           83.     At that same “Goals conference,” Principal Vidmar and District employee Pat  
2 McCreary made it clear that Mr. Williams could be subject to dismissal if he distributed  
3 handouts other than those contained in the packet of materials Mr. Williams had just received.

4           84.     Since approximately May 14, 2004, Principal Vidmar has systematically rejected  
5 Mr. Williams’ proposed lesson plans and proposed supplemental handouts referenced herein that  
6 contain information about the role religion played in the founding of our country.

7           85.     Principal Vidmar rejected the proposed lesson plans and proposed supplemental  
8 handouts referenced herein because of their religious content.

9           86.     Mr. Williams has not distributed any document or taught any lesson rejected by  
10 Principal Vidmar.

11          87.     Other teachers at the School who have been the subject of parental complaints  
12 regarding their instructional speech are not required to submit all of their lesson plans and  
13 supplemental handouts to Principal Vidmar in advance.

14          88.     Other teachers at the School who have been the subject of parental complaints  
15 regarding their instructional speech are not required to use supplemental handouts only from a  
16 packet issued by Principal Vidmar.

17          89.     Less than five percent of all of Mr. Williams’ supplemental handouts actually  
18 distributed throughout the school year contain references to religion.

19          90.     Mr. Williams does not emphasize religion in his classroom.

20          91.     Other than the religious references that occasionally occur in the textbook  
21 readings, student discussions, his prepared lesson plans, and supplemental handouts during the  
22 school year, Mr. Williams does not distribute religious material to students.

23          92.     Other than religious references that occasionally occur in the textbook readings,  
24 student questions, his prepared lesson plans, and supplemental handouts during the school year,  
25 Mr. Williams does not discuss religion with students when acting in his capacity as a public  
26 school teacher.

27          93.     Mr. Williams does not discuss his personal religious beliefs with students when  
28 acting in his capacity as a public school teacher.

1           94. Defendants have a policy, practice, and/or custom of prohibiting teachers from  
2 engaging in curriculum-related instructional speech about Christianity if the teacher adheres to  
3 orthodox Christian beliefs, even if the teacher is not attempting to influence the students'  
4 religious beliefs.

5           95. This policy, practice, and/or custom does not apply to similarly situated teachers  
6 who do not adhere to orthodox Christian beliefs.

7           96. Defendants have a policy, practice, and/or custom of prohibiting teachers from  
8 distributing to students curriculum-related documents containing Christian speech if the teacher  
9 adheres to orthodox Christian beliefs, even if the teacher is not attempting to influence the  
10 students' religious beliefs.

11           97. This policy, practice, and/or custom does not apply to similarly situated teachers  
12 who do not adhere to orthodox Christian beliefs.

### 13 **California State Law**

14           98. California Education Code § 51511 states:

15           Nothing in this code shall be construed to prevent, or exclude from the public  
16 schools, references to religion or references to or the use of religious literature,  
17 dance, music, theatre, and visual arts or other things having a religious  
18 significance when such references or uses do not constitute instruction in religious  
19 principles or aid to any religious sect, church, creed, or sectarian purpose and  
20 when such references or uses are incidental to or illustrative of matters properly  
21 included in the course of study.

22           99. On its face, California Educational Code § 51511 permits, *inter alia*, “religious  
23 literature” and “other things having a religious significance” as part of the school curriculum.

### 24 **California’s History-Social Science Content Standards**

25           100. The California Department of Education has promulgated content standards for  
26 fifth grade curriculum taught in California public schools, including the District’s schools.

27           101. The District’s schools are required to educate fifth grade students according to the  
28 State’s content standards.

1           102. The California Department of Education has published the content standards  
2 governing history and the social sciences as part of a book entitled “History-Social Science  
3 Framework for California Public Schools Kindergarten through Grade Twelve” (“Framework”).

4           103. In that book, the History-Social Science Content Standards for Grade Five are  
5 entitled “United States History and Geography: Making a New Nation.” A true and correct copy  
6 of these standards (including the cover pages of the Framework) is attached as Exhibit A.

7           104. The introduction to the History-Social Science Content Standards for Grade Five  
8 state: “This course focuses on one of the most remarkable stories in history: the creation of a new  
9 nation . . . founded on the Judeo-Christian heritage. . . .” Ex. A at 64.

10           105. This nation was founded on the Judeo-Christian heritage.

11           106. Standard 5.2.2 states “Explain . . . the reasons Europeans chose to explore and  
12 colonize the world (e.g., the Spanish Reconquista, the Protestant Reformation, the Counter  
13 Reformation).” *Id.* at 71.

14           107. Standard 5.4 requires that the “Student understand the political, religious, social,  
15 and economic institutions that evolved in the colonial area.” *Id.* at 72.

16           108. Standard 5.4.2 states: “Identify the major individuals and groups responsible for  
17 the founding of the various colonies and the reasons for their founding (e.g., . . . William Penn,  
18 Pennsylvania. . . .)” *Id.*

19           109. Standard 5.4.3 states: “Describe the religious aspects of the earliest colonies (e.g.,  
20 Puritanism in Massachusetts, Anglicanism in Virginia, Catholicism in Maryland, Quakerism in  
21 Pennsylvania).” *Id.*

22           110. Standard 5.4.4 states: “Identify the significance and leaders of the First Great  
23 Awakening, which marked a shift in religious ideas, practices, and allegiances in the colonial  
24 period, the growth of religious toleration, and free exercise of religions.” *Id.*

25           111. Standard 5.5.1 states: “Understand how political, religious, and economic ideas  
26 and interests brought about the Revolution. . . .” *Id.*

27           112. Standard 5.7.6 states: “Know the songs that express American ideals (e.g.,  
28 ‘America the Beautiful,’ ‘The Star Spangled Banner’).”

1 113. The Framework contains a list of “analysis skills” in conjunction with the content  
2 standards. Ex. A at 75.

3 114. The analysis skills under “Research, Evidence, and Point of View” require that:

- 4 1. Students differentiate between primary and secondary sources.
- 5 2. Students pose relevant questions about events they encounter in historical  
6 documents, eyewitness accounts, oral histories, letters, diaries, artifacts,  
7 photographs, maps, artworks, and architectures.
- 8 3. Students distinguish fact from fiction by comparing documentary sources  
9 on historical figures and events with fictionalized characters and events.

10 *Id.*

11 115. On their face, the California History-Social Science Content Standards require,  
12 *inter alia*, teaching about religion’s influence on society and the founding of this country.

13 116. Appendix C of the Framework discusses teaching about religion in public schools.  
14 *Id.* at 203.

15 117. Appendix F of the Framework discusses the importance of and encourages the use  
16 of primary source documents. *Id.* at 214.

### 17 **Cupertino Union School District Content Standards**

18 118. The District has promulgated content standards for fifth grade curriculum taught  
19 in District schools.

20 119. Standard 4 under “United States History and Geography: Making a New Nation”  
21 requires that: “Students understand the political, religious, social, and economic institutions that  
22 evolved in the colonial era.”

23 120. On their face, the District’s content standards require, *inter alia*, that students  
24 receive objective instruction about religion.

## 25 **VI.**

### 26 **STATEMENTS OF LAW**

27 121. Each and all of the acts alleged herein were done by Defendants under the color  
28 and pretense of state law, statutes, ordinances, regulations, customs, usages, and policies of  
Cupertino Union School District, Santa Clara County, and the State of California.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

122. Teachers do not shed their constitutional rights at the schoolhouse gate. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 506 (1969).

123. Teachers have academic freedom rights within the reasonable limits of the state’s education content standards.

124. Unless and until the enforcement of the Defendants’ religiously discriminatory policy and/or practice is enjoined, the Plaintiff will suffer and continue to suffer irreparable harm to his federal constitutional rights.

1 **VII.**

2 **FIRST CAUSE OF ACTION - VIOLATION OF THE EQUAL PROTECTION CLAUSE**  
3 **UNDER THE UNITED STATES CONSTITUTION**

4 125. The allegations contained in all preceding paragraphs are incorporated herein by  
5 reference.

6 126. The Equal Protection Clause requires that the government treat similarly-situated  
7 persons equally.

8 127. The Defendants allowed similarly-situated teachers to include religious  
9 expression in their lessons and supplemental handouts.

10 128. The Defendants do not require similarly-situated teachers to submit their lesson  
11 plans and supplemental handouts in advance.

12 129. The Defendants do not limit similarly-situated teachers' choices of supplemental  
13 handouts as they have limited Mr. Williams' choices.

14 130. The Defendants have treated Mr. Williams differently based on the exercise of his  
15 fundamental right to free speech and because he adheres to orthodox Christian beliefs.

16 131. Defendants have no compelling interest to justify their unequal treatment of Mr.  
17 Williams.

18 132. The Defendants' policy, practice, and/or custom therefore violates the Equal  
19 Protection Clause of the Fourteenth Amendment to the United States Constitution.

20 WHEREFORE, Plaintiff respectfully prays that the Court grant the relief set forth  
21 hereinafter in the prayer for relief.

22 **VIII.**

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff requests the following relief:

25 A. That this Court preserve the pre-litigation status quo by preliminarily enjoining the  
26 Defendants from ceasing their policy, practice, and/or custom of prohibiting teachers adhering to  
27 orthodox Christian beliefs from distributing curriculum-related supplemental handouts  
28 containing Christian speech;

1 B. That this Court preliminarily and permanently enjoin the Defendants from enforcing  
2 their policy, practice, and/or custom of suppressing the use by teachers adhering to orthodox  
3 Christian beliefs of lessons and curriculum-related supplements on the basis that they contain  
4 Christian religious content or references;

5 C. That this Court enter declaratory judgment stating that the Defendants' policy,  
6 practice, or custom is facially unconstitutional and violates the Plaintiff's rights as guaranteed  
7 under the Fourteenth Amendment to the United States Constitution;

8 D. If the policy, practice, or custom is not declared facially unconstitutional, that this  
9 Court enter a declaratory judgment stating that the policy, practice, or custom is unconstitutional  
10 as applied to the Plaintiff and violates the Plaintiff's rights guaranteed under the Fourteenth  
11 Amendment to the United States Constitution;

12 E. That this Court award Plaintiff his costs and expenses of this action, including  
13 reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988, and other applicable law;

14 F. That this Court grant such other and further relief as the Court deems equitable, just,  
15 and proper;

16 G. That this Court adjudge, decree and declare the rights and other legal relations of the  
17 parties to the subject matter here in controversy, in order that such declarations shall have the  
18 force and effect of final judgment; and

19 H. That this Court retain jurisdiction of this matter as necessary to enforce the Court's  
20 orders.

1 Respectfully submitted on this, the 13th day of May, 2005,

2 Attorney for Plaintiff,

3  
4 By: /s/Kevin H. Theriot

5  
6 **CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

7 Pursuant to Civil L.R. 3-16, the undersigned certifies that as of this date, other than the  
8 named parties, there is no such interest to report.

9 Respectfully submitted on this, 13th day of May, 2005.

10  
11 By: /s/Kevin H. Theriot

12 //

1 **VERIFICATION**

2 I, Stephen J. Williams, a citizen of the United States and a resident of the State of  
3 California, have read the foregoing Second Amended Verified Complaint for Declaratory and  
4 Injunctive Relief and, pursuant to 28 U.S.C. § 1746, hereby declare, under penalty of perjury  
5 under the laws of the United States of America, that the foregoing is true and correct.  
6

7 Dated this 13th day of May, 2005

8  
9 By: /s/Stephen J. Williams

10 **SIGNATURE ATTESTATION**

11 Pursuant to the rules and procedures governing electronic filing, I, the undersigned  
12 attorney for Plaintiff Stephen J. Williams, attest that the content of this document is acceptable to  
13 signatory Stephen J. Williams and that I have on file a holograph signature for Mr. Williams'  
14 signature indicated by a "conformed" signature (/S/) within this efiled document.  
15

16 Dated this 13th day of May, 2005

17 By: /s/Kevin H. Theriot  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28