

1 DeMaria Law Firm, APC
Anthony N. DeMaria, #177894
2 *ADemaria@demarialawfirm.com*
1684 W. Shaw Ave. Suite 101
3 Fresno, California 93711
Telephone: (559) 206-2410
4 Facsimile: (559) 570-0126

5 Attorneys for Defendants, STATE CENTER
COMMUNITY COLLEGE DISTRICT,
6 CAROLE GOLDSMITH, and JULIANNA D.
MOSIER
7

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT – FRESNO DIVISION
10

11 MICHAEL STANNARD, PH.D., and DAVID
RICHARDSON

12 Plaintiff,
13

14 v.

15 STATE CENTER COMMUNITY COLLEGE
DISTRICT, CAROLE GOLDSMITH, Ed.D.,
Chancellor, State Center Community College
16 District, in her official capacity, JULIANNA
D. MOSIER, Vice Chancellor, Human
17 Resources, sued in her official capacity, and
DOES 1 through 20, inclusive,
18

19 Defendant.
20

Case No. [Unassigned]

**NOTICE OF REMOVAL OF ACTION
AND DEMAND FOR JURY TRIAL**

21 Please take notice that defendants, STATE CENTER COMMUNITY COLLEGE
22 DISTRICT, CAROLE GOLDSMITH, ED., and JULIANNA D. MOSIER (hereinafter referred to
23 as "defendants"), by and through the undersigned counsel, hereby remove this action to federal
24 court, in the United States District Court for the Eastern District of California, based upon the fact
25 that federal claims have been asserted.

26 1. Defendants demand a jury trial.

27 //

28 //

1 2. Plaintiffs have filed an action against defendants asserting federal causes of action.
2 Plaintiff's first cause of action is an allegation of a violation of the First Amendment of the United
3 States Constitution, a substantive federal claim and cause of action.

4 3. Plaintiff's 2nd cause of action is an allegation of the violation of plaintiff's rights
5 under the first and 14th amendments of the United States Constitution, which are substantive
6 federal claims and causes of action.

7 4. Plaintiff's 3rd through 8th causes of action are state causes of action for the State of
8 California, which are subject to the supplementary jurisdiction of the District Court.

9 5. Plaintiff's complaint was served on September 12, 2022, making this removal
10 proper and timely.

11 6. Plaintiff's complaint was filed in Fresno County Superior Court, which is a
12 jurisdiction and venue within the Eastern District of California, making the removal proper to the
13 venue of the Eastern District of California.

14 7. As the first and second causes of action in the complaint are substantive federal
15 causes of action under federal law and the United States Constitution, this court has original
16 jurisdiction of both the first cause of action and the second cause of action in the complaint, under
17 28 U.S.C. Section 1331.

18 8. Plaintiffs' third, fourth, fifth, sixth, seventh and eighth causes of action are subject to
19 the supplemental jurisdiction of the federal court, United States District Court for the Eastern
20 District of California, under 28 U.S.C. 1367, as supplemental claims and causes of action to the
21 two federal substantive causes of action and claims in the First and Second causes of action.

22 9. Removal is proper for federal questions under Federal Rule of Civil Procedure
23 sections 1441 and 1446.

24 10. Plaintiff's Complaint, which is attached hereto as exhibit "A", involves a series of
25 common factual allegations that plaintiffs were disciplined for exercising their free speech rights,
26 with extensive federal court and United States constitutional citations and allegations. As such,
27 this court has jurisdiction over all claims arising out of the complaint, including those specifically
28 alleged as federal constitutional law violations and federal substantive questions, and those state

1 court actions premised on the same set of facts as the federal substantive questions for which there
2 is supplemental jurisdiction under 28 U.S.C. 1367.

3 11. Pursuant to 28 U.S.C. section 1446(d), a true and correct copy of this notice of
4 removal will be filed with the Superior Court of California, Fresno County.

5 Defendants demand a jury trial.

6
7 Dated: September 28, 2022

DeMaria Law Firm, APC

8
9
10 By: 

11 Anthony N. DeMaria
12 Attorneys for Defendants, STATE CENTER
13 COMMUNITY COLLEGE DISTRICT, CAROLE
14 GOLDSMITH, JULIANNA D. MOSIER
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Exhibit "A"

SUM-100

SUMMONS To First Amended Complaint
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: STATE CENTER COMMUNITY COLLEGE DISTRICT,
(AVISO AL DEMANDADO): CAROLE GOLDSMITH, Ed.D., Chancellor, State Center
Community College District, in her official capacity,
JULIANNA D. MOSIER, Vice Chancellor, Human Resources, sued in her official capacity,
and DOES 1 through 20, inclusive.

E-FILED
9/8/2022
Superior Court of California
County of Fresno
By: I. Herrera, Deputy

Received
State Center
SEP 12 REC'D

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

MICHAEL STANNARD, Ph.D., DAVID RICHARDSON

Office of General Counsel

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted puede usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

B.F. Sisk Courthouse, 1130 "O" Street, Fresno CA 93721

CASE NUMBER: (Número del Caso):
22CECG01787

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Peter Sean Bradley, 1111 E. Herndon, Suite 204, Fresno CA 93720 (559) 960-5613

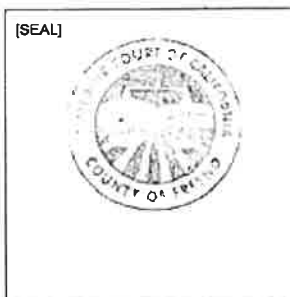
DATE: ~~September 6, 2022~~ 9/8/2022
(Fecha)

Clerk, by /s/ I. Herrera
(Secretario)

, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)



NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify): *State Center Community College District*
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify): *Public Entity*
4. by personal delivery on (date)

Page 1 of 1

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Peter Sean Bradley, Esq. SBN 109258
1111 E. Herndon, Suite 204
Fresno, California 93720
Telephone No.: (559) 960-5613
Email: Petersean@aol.com

E-FILED
9/6/2022 8:00 AM
Superior Court of California
County of Fresno
By: I. Herrera, Deputy

Attorney for Plaintiff,
Michael Stannard, Ph.D., David Richardson

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF FRESNO**

MICHAEL STANNARD, Ph.D., DAVID
RICHARDSON,

Plaintiffs,

v.

STATE CENTER COMMUNITY
COLLEGE DISTRICT, CAROLE
GOLDSMITH, Ed.D., Chancellor, State
Center Community College District, in her
official capacity, JULIANNA D. MOSIER,
Vice Chancellor, Human Resources, sued in
her official capacity, and DOES 1 through
20, inclusive,

Defendant.

Case No.: 22CECG01787

FIRST AMENDED COMPLAINT

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I. BACKGROUND ALLEGATIONS.

1. This civil action seeks declaratory relief and damages. Venue properly lies in this Court in that Defendant State Center Community College District (“SCCCD”) has its headquarters and principal offices in Fresno County, California and many of the acts complained of occurred in the County of Fresno, State of California. At the times alleged herein Defendant Carole Goldsmith, Ed.D. (“Goldsmith”), was the Chancellor of State Center Community College District, and responsible for the policies, practices procedures set forth in this complain. Goldsmith is named in her official capacity. At the times alleged herein Defendant JULIANNA D. MOSIER (“Mosier”) was Vice Chancellor, Human Resources, and responsible for drafting and implementing the policies, practices procedures set forth in this complain. Mosier is named in her official capacity.

2. Michael Stannard, Ph.D., (“Dr. Stannard”) and David Richardson (“Richardson”) are instructors employed by SCCC. SCCC is a governmental entity organized as part of the State of California. Dr. Stannard and Richardson will be referred to collectively as “Plaintiffs.”

3. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein as Does 1-20, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs will amend this Complaint to allege the true names and capacities of Does 1-20 when ascertained. Plaintiffs are informed and believe and thereon allege that each of the fictitiously named Defendants are responsible in some manner for the occurrences herein alleged and that Plaintiffs’ claims and damages herein alleged were proximately caused by the conduct of said fictitiously named defendants. A reference to any of the named defendants includes by reference an allegation against the fictitiously named defendants.

1 4. Relief is sought against each and all of the Defendants as well as their agents,
2 successors, assistants, employees, attorneys and all persons acting in concert or
3 cooperation with them or at their direction.

4 **A. DR. MICHAEL STANNARD**

5 5. On approximately March 4, 2021, Dr. Stannard was asked to meet with the
6 SCCCD Human Resources Department investigator, Erica Reyes, about some
7 unspecified claim that had been made against him. On March 9, 2021, Dr. Stannard
8 met with Ms. Reyes as part of that investigation.

9 6. During the hour-long interview, Dr. Stannard was interrogated about two
10 statements he allegedly made. One statement allegedly occurred during a race-
11 sensitivity training session occurring on the day after the January 6, 2021 protest/riot
12 at the United States Capitol. In connection with points made by another instructor
13 about the Capitol riot of January 6, 2021, Dr. Stannard observed that the riot at the
14 Capitol was “bad” and that the burning of minority-owned businesses during last
15 summer’s riots was “bad.” Another statement was allegedly made in a Justice and
16 Healing Circle that Dr. Stannard regularly attended. Dr. Stannard was reported to
17 have said in connection with some comment about single parent households that
18 studies showed that children do better if they are raised with both biological parents.
19 Dr. Stannard denied making this alleged comment; what he said was that children
20 have a right to be raised by their biological parents, and that there was a
21 philosophical argument for the biological two-parent family based on the “problem
22 of origins,” i.e., children who do not know their parents question their own origins.

23 7. Dr. Stannard was asked if he would have made these comments if there had
24 been no African Americans present and whether he intended to hurt the feelings of
25 other attendees. He was also asked if he was aware that he was invalidating the
opinions of others and whether he was aware that his comments had caused someone
to “become so angry they started to cry.”

1 8. Dr. Stannard affirmed that his intent was to speak the truth in a public
2 environment where these issues were raised and that while he was sorry that anyone
3 would have an emotional reaction, that did not justify his censoring himself.

4 9. Dr. Stannard also shared that after he had made his brief comment about the
5 “problem of origins,” he was told by the organizer that his remarks were “offensive.”
6 Another participant threatened to leave the group if the group did not move on from
7 the topic.

8 10. Dr. Stannard’s rights were violated in multiple ways. The activities that Dr.
9 Stannard participated in were public activities where the participants were invited to
10 share their insights. Dr. Stannard’s insights were responsive to the topics being
11 discussed. Dr. Stannard’s demeanor and tone were restrained and respectful.

12 11. Dr. Stannard was exercising his academic freedom. Dr. Stannard’s comments
13 were made in the context of a public discussion of public issues, which makes the
14 issues raised, and Dr. Stannard’s observations, broadly political, entitling him to the
15 protection of California law as well as the Constitution.

16 12. However, notwithstanding his free speech rights, Dr. Stannard was singled
17 out for an “investigation” because of the content of his speech, and not because of
18 any neutral application of a neutral “time, place, and manner” restriction and/or
19 because of race and age.

20 13. Permitting venues for the discussion of only one side of public issues, and
21 tolerating the intimidation of one side of the debate, as occurred when Dr. Stannard
22 was told his remarks were offensive and that he would be boycotted or cancelled,
23 and then made the subject of an “investigation” created a retaliatory hostile
24 environment for Dr. Stannard in violation of the federal Constitution and California
25 law, including the Unruh Act which extends to “political affiliation.” (*Marina Point
Ltd. v. Wolfson* (1982) 30 Cal.3d 721, 726 [“Whether the exclusionary policy rests
on the alleged undesirable propensities of those of a particular race, nationality,

1 occupation, political affiliation, or age, ... the Unruh Act protects individuals from
2 ... arbitrary discrimination.”.) In addition, Dr. Stannard was subjected to viewpoint
3 discrimination which singled out his speech for administrative action and censure,
4 which violates the First Amendment and federal law. (*R.A.V. v. City of St. Paul*, 505
5 U.S. 377, 120 L. Ed. 2d 305, 112 S. Ct. 2538 (1992); 18 USC §242.)

6 14. The explanation was offered at the interview that this was not a criminal
7 proceeding, but “merely” an administrative proceeding. This trivialized the
8 substantial chilling effect of the investigation on Dr. Stannard’s legal rights. Dr.
9 Stannard and others were sent a message that they must be very careful about what
10 they say, particularly if what they say runs counter in any way to the prevailing
11 academic orthodoxy, even if the statements are true and spoken in a restrained and
12 respectful manner.

13 15. Dr. Stannard was left on tenterhooks about what his future held. He did not
14 receive a communication about the disposition of the complaints until approximately
15 May 12, 2021. During the period he was kept in suspense, he did not know whether
16 he would keep his job. Even after being told that no further action would be taken,
17 he does not know if there will be any further specious claims against him and he has
18 been forced to censor and suppress his speech in order to avoid a further re-
19 occurrence of another “investigation.”

20 16. SCCCD’s determination had been made on May 10, 2021 by Lori Bennett,
21 Ed.D., President, Clovis Community College. The allegations were not described.
22 The finding was “not sustained.” Dr. Stannard was advised that “While your
23 comments did not rise to the level of discrimination in violation of District policy,
24 the investigative interviews demonstrated that some employees were offended by
25 your comments.” Stannard was instructed by SCCCD: “I encourage you, and all
employees, to demonstrate empathy toward others and to reflect on how statements

1 we make may impact others to ensure that we are creating an inclusive working and
2 learning environment for all employees and students.” Dr. Stannard was also told:

3 State Center Community College District does not condone
4 harassment, discrimination, unprofessional conduct, or other
5 misconduct in the workplace or educational environment and takes
6 such complaints seriously. The District has a strong policy prohibiting
7 discrimination, harassment, and retaliation and a thorough investigation
8 has been conducted of this complaint.

9 17. These warnings, admonitions and instructions were nebulous and threatening
10 to Dr. Stannard in that they implied that he had not demonstrated empathy, did not
11 explain what SCCCD meant by “demonstrating empathy,” and further implied that
12 he should reflect on how his statements in the context of the investigation hurt others
13 and undermined an “inclusive working and learning environment,” and concluded
14 with a nebulous threat about “unprofessional conduct.”

15 18. This matter should never have gotten this far. The complainants should have
16 been told about the Constitutional right of free speech and how they cannot subvert
17 the investigative procedures to harass and intimidate those who they perceived as
18 their ideological/career/political adversaries. (See e.g., *White v. Lee* (9th Cir. 2000)
19 227 F.3d 1214, 1230 (“The officials did not need to gather additional information
20 before determining whether these flyers incited imminent lawless action or not. That
21 the First Amendment protected the authors and distributors of the flyers was
22 plain.”).)

23 19. While Dr. Stannard was told in a pro forma manner that he could file his own
24 claim, his statements to that effect should have started an investigation. Further,
25 since Dr. Stannard was not told who the complainants against him were, something
known to the investigator, the suggestion that he file a claim was a hollow offer as
the investigator was told and knew already. This information is known to SCCCD,
which refused to perform any investigation into whether Stannard was the victim of

1 race/age harassment despite its duty under the Fair Employment and Housing Act
2 to perform such an investigation.

3 **B. INSTRUCTOR DAVID RICHARDSON**

4 20. Instructor David Richardson is an instructor at the Madera Community
5 College campus of SCCC. Richardson has a Master's degree and teaches history.
6 Richardson also publicly identifies as gay and conservative.

7 21. In the fall of 2021, SCCC mandated that its college faculty attend a "College
8 Hour" on a regular basis. The "College Hour" was attended online by faculty and
9 provided an hour-long forum for SCCC to instruct faculty on policy or other
10 subjects determined by SCCC.

11 22. On or about October 15, 2021, SCCC mandated that instructors attend a
12 College Hour on the subject of etiquette in the use of personal pronouns. This
13 instruction consisted of a presentation on "pronoun etiquette." The presentation was
14 made by Jamie MacArthur Ph.D. who is a male identifying as a female, i.e., a
15 transexual or "trans-female." Jamie MacArthur ("JM") insists on being referred to
16 by third person plural pronouns, e.g., they/them, but in this complaint to avoid any
17 concession or dispute about the ontological reality of such subjective identification,
18 or confusion as to who or how many are being referred to, JM will be referred to as
19 "JM."

20 23. The October 15, 2021 College Hour was attended on-line by several dozen
21 instructors. The format for the attendees was that the speaker could be seen in a
22 larger window on the computer screen while the other attendees were in small
23 thumbnails with either the live feed of them watching, or, if their camera was shut
24 off, some other image. In addition, the thumbnail had their name and in this case a
25 line was presented for the participants to insert their "preferred gender pronouns."

24 24. By October 2021, the issue of preferred gender pronouns had become a
25 contentious political and philosophical issue. The issue was pressed by and on behalf

1 of transexuals and other people claiming other kinds of “sexual identities.” Under
 2 this worldview, “sexual identities” are not just limited to “transexuals,” i.e., those
 3 who identify with the opposite biological sex, and “cisgender,” i.e., those who
 4 identify with their biological sex. Under this worldview, there are people who
 5 claimed to identify as one of many other highly nuanced sexual identities based on
 6 a plethora of subjective assessments. Along with transexuals there are abrosexuals,
 7 androgynosexuals, androsexuals, aromantics, and asexuals, which are only an
 8 incomplete listing of the various sexual identities that start with the letter “A.”¹ Such
 9 people insist that other people call them by pronouns that recognize such putative
 10 sexual identities. Since, in many cases the desired pronoun is not apparently
 11 applicable or entirely fictitious, see e.g., the “Cake Sexual”² people having this
 12 philosophical/sociological perspective insist that everyone “announce their
 13 “preferred gender pronouns.” The range of “preferred gender pronouns” (“PGP”) is
 14 potentially limitless, and includes “he/him,” “she/her,” “they/them” (for a single
 15 human being) and “xe/xir” as some examples.³

16 25. Richardson philosophically and intellectually disputes that any person can
 17 change empirical, ontological, or objective reality by a process of “identification.”
 18 For example, he believes that a person will not grow an inch by identifying himself
 19 as “taller.” Likewise, since females and women are not born with male
 20 chromosomes, genitalia, and male secondary sex characteristics, as a matter of
 21 philosophical and intellectual commitment to truth, he disputes that a male can
 22 change sex by a matter of self-identification.

22 ¹ “A-Z List of Sexualities” by Unite UK (June 28, 2018) [https://uniteuk1.com/2018/06/a-z-list-of-](https://uniteuk1.com/2018/06/a-z-list-of-sexualities/)
 23 sexualities/

24 ² [https://twitter.com/libsoftok/status/1524492898774884353?fbclid=IwAR0SptJpy6ACdpFich4](https://twitter.com/libsoftok/status/1524492898774884353?fbclid=IwAR0SptJpy6ACdpFich4b9EdDI_yhfMHY3ccqPV4u_RjtVfpPgXgpigu6UuQ)
 25 b9EdDI_yhfMHY3ccqPV4u_RjtVfpPgXgpigu6UuQ

³ See https://en.wikipedia.org/wiki/Preferred_gender_pronoun

1 26. Richardson also believes as a philosophical and intellectual matter that the
2 purpose of language is to serve the social function of communicating truth.
3 Accordingly, he does not believe that certain classes can be privileged with their
4 own special set of “preferred gender pronouns” any more than they can privileged
5 with their own set of “preferred adjectives.”

6 27. At the October 15, 2021, College Hour, Richardson reasoned that it was not
7 intellectually equitable to allow only certain people to pick certain “Preferred
8 Gender Pronouns.” Accordingly, Richardson filled out his “Preferred Gender
9 Pronouns” as “Do, Re, Mi.” In doing this, Richardson was not joking, and he was
10 not mocking anyone. He was making the serious point that if “Preferred Gender
11 Pronouns” should not be mandatory because they were based on an irrational
12 perception of reality and that if they were to be mandated, displayed, or required,
13 then they would frustrate communication for ideological reasons.

14 28. Richardson’s philosophical and intellectual position is that any rule, policy,
15 practice or official pressure mandating that he use PGP contrary to reality is an
16 imposition, burden and violation of his freedom of speech under the First
17 Amendment and therefore a violation of federal law, to wit, 18 USC §242
18 (“Whoever, under color of any law, statute, ordinance, regulation, or custom,
19 willfully subjects any person in any State, Territory, Commonwealth, Possession,
20 or District to the deprivation of any rights, privileges, or immunities secured or
21 protected by the Constitution or laws of the United States. . . . shall be fined under
22 this title or imprisoned not more than one year. . . .”); *United States v. Classic*
23 (1941) 313 U.S. 299, 326-329 [61 S.Ct. 1031, 1043-1044, 85 L.Ed. 1368, 1383-
24 1385].) Richardson refused to participate in this violation of his and other faculty
25 members’ First Amendment rights.

29. Richardson’s listing of his PGP was not disruptive. Richardson’s PGP
themselves were virtually unreadable on the screen with other attendees. No one

1 commented on his PGP. To all appearances at the meeting, no one noticed
2 Richardson's PGP at the meeting.

3 30. However, on Monday, October 18, 2021, JM emailed Richardson and said in
4 relevant part:

5 The reason that I am contacting you is because I noticed in the
6 College Hour on Friday that you had what appeared to be a joke
7 shared where someone might normally share their pronouns on zoom
8 (do-re-mi). I wanted to let you know that doing this is considered to
9 be extremely offensive by people in the trans community. It's
10 possible that you didn't know this, so I wanted to take a moment to
11 share some resources related to this with you so that you have a better
12 understanding of how people in the trans community would like to
13 be treated

14 Here is an article: <https://www.washingtonpost.com/outlook/please-stop-making-jokes-about-gender-pronouns-when-people-tell-you-theirs/2019/12/11/8f6a063a-0a4d-11ea-8397-a955Cd542d00-story.html> Also you may have noticed that my email signature has a
15 link to some basic information on pronouns. This was written by
16 someone who did their dissertation on pronoun usage, so they have
17 a lot of rigorous academic expertise in this area. Here is their website
18 if you are interested in learning more about that
19 work: <http://www.kirbyconrod.com/>.

20 I didn't mention anything about this at the time of the meeting, as I
21 wanted to stay focused on the dialogue at hand. Although it was
22 painful for me to not say anything in that moment, I chose to put the
23 good of the community ahead of my own well being. I am choosing
24 to share this information with you directly now instead of with
25 someone else out of respect for the ideals embodied by our union of
solidarity within our community of scholars. I hope this message is
received with the spirit of good will that I intend and that you would
choose not to use the zoom platform as a way of making a joke that
is harmful to trans people.

31. JM's email conceded that the issue of PGP was a matter of scholarly
discussion, but also insisted that only one side be permitted to engage in a non-

1 disruptive discussion because JM felt it was “painful” for JM not to say anything
2 immediately. JM dismissed Richardson's speech as not being worthy of any First
3 Amendment protection and as merely a “joke.”

4 32. JM’s communication was threatening to Richardson. Richardson was well-
5 aware that such communications were the first step in the “cancellation” of
6 dissenting voices. Such “cancellation” could involve termination, discipline,
7 mobbing, or the loss of privileges and professional standing. Richardson was aware
8 that JM was using his position as a transexual victim in order to coerce Richardson
9 and others to accede to JM’s ideological positions and that JM intended to force
10 Richardson to cease to exercise his right of free expression and be forced to
11 espouse JM’s speech. At all times, Richardson was aware that JM was exercising
12 authority given to him by the State of California through SCCCD in that JM was
13 placed in charge of training on PGP etiquette. In engaging in this conduct, both
14 SCCCD and JM were violating 18 USC §242. Richardson refused to participate in
15 this violation of 18 USC §242 and was thereafter officially reprimanded in
16 retaliation for his refusal to participate in their deprivation of his rights under the
17 Constitution, to wit, the First and Fourteenth Amendments.

18 33. Richardson responded to JM’s email as follows:

19 To be blunt, what makes they think it was a joke? Am Do not allowed
20 to identify mi own pronouns as an LGBTQIA2+ individual? Have
21 Do done or said anything to anyone to make they think it was a
22 "joke"? Do think they are making assumptions about mi own thought
23 processes and rationale that is offensive in and of itself. Do don't find
24 anything about the entire debate "funny". If they are uncomfortable
25 with mi choice of pronouns, Do might suggest that the issue is not re
although Do would never presume to know what is going on in their
mind. Do also find it interesting that they would presume Do is any
less educated on the subject of the transgender community than they

1 is. Do don't question their choice of personal pronouns. Personal
2 pronouns are personal.⁴

3 34. The next contact in this sequence was on November 1, 2021 when James
4 Young the “Employee Relations Coordinator” for SCCCD contacted Richardson
5 about JM and the “concerns they had regarding your use of pronouns in a Zoom
6 meeting.”⁵ Young requested some time to speak to Richardson about “this matter.”

7 35. In response to Young, Richardson wrote:

8 If Dr. MacArthur and yourself would like to make an issue of my
9 personal pronouns which as I have told Dr. MacArthur are personal,
10 then we are going to be opening a can of worms that I don't believe
11 the District would want to get involved in. Picking and choosing
12 which personal pronouns people can and cannot use would amount
13 to harassment in the workplace and the creation of a toxic work
14 environment. This week is not possible as I have three faculty
15 evaluations that need to be completed. That being said, I would be
16 happy to meet with you in the future as long as any meeting includes
17 a union representative and everyone understands that any attempt to
18 coerce or in any other way change my personal pronouns will be seen
19 on my part as hostility towards an open and proud LGBTQIA2S+
20 individual. Thank you.

21 36. Richardson copied his supervisors and some faculty members because he
22 understood that JM was moving in the direction of “canceling” him. Richardson had
23 observed that Dr. Stannard had been subjected to an investigation for angering
24 leftwing members of the campus community for failing to say things properly
25 supportive of anti-racist ideology. Richardson has observed that leftwing professors
have used harassment claims in order to stifle speech that is contrary to leftwing
ideology, such as that human gender is fluid and not determined by biology. Since

24 ⁴ In this email, Richardson's references to “they” and “their” are to JM and Richardson's reference to “Do” is to
25 himself.

⁵ Again, the use of “they” is a reference to JM.

1 there was no policy against speaking or associating with other instructors,
2 Richardson copied the other instructors on his email. His intent was to exercise his
3 constitutional right of speech and association. He was not under official investigation
4 at that time. He had not been instructed not to share this information. He did not
5 intend to retaliate but was attempting to protect himself from retaliation for not
6 subscribing to leftwing ideology.

7 37. On November 1, 2021, JM responded by including the administration in his
8 email to Richardson. JM admitted that JM had gotten HR and the relevant union
9 involved. JM expressed JM's purpose as being "to discuss the harm that has been
10 caused and how to mediate a solution to that harm," which assumed that
11 Richardson's exercise of his free speech rights qualified as a "harm." JM said that
12 JM sought a "facilitated discussion" in order to obtain the "consent" of Richardson
13 to create a workplace setting that would be "safe" for everyone. To translate from
14 the Orwellian euphemisms, JM wanted Human Resources to compel Richardson to
15 adhere to JM's speech standards.

16 38. In response, Richardson requested that HR investigate JM's harassment of
17 Richardson. Richardson explained:

18 After finding out that HR had been involved, my preexisting and well
19 documented anxiety and panic disorder has gone through the roof.
20 Having personally experienced firsthand the hate and vitriol that
21 open members of the community were subjected to in the 1980s
22 when I was in college, having been spat on, called "fxxxx" and other
23 such behavior, I am hypervigilant to use the words of my therapist
24 when I feel that my own safety and livelihood are threatened. I feel
25 that way now which is only heightened by the atmosphere of chaos
and uncertainty surrounding COVID, vaccine mandates and the like.
I'm not looking for anything more than to be left in peace. I thought
Dr. MacArthur understood that, but it seems not. I haven't questioned
their choices and I believed that mine would not be questioned. It
seems I am wrong. I am not interested in any resolution that would
involve the changing of my pronouns until the district is interested

1 in examining everyone's personal pronoun choices and
2 implementing some sort of policy on how pronouns are to be used
3 and which ones are acceptable. I am willing to let the matter drop if
Dr. MacArthur is amenable, but it is their choice.

4 39. Nonetheless there was no investigation of JM's harassment of Richardson.
5 Instead SCCCD began an investigation of Richardson. The "investigation" involved
6 asking Richardson personal questions that intruded on his academic freedom and
7 right of privacy. The alleged investigation lasted for approximately six months. After
8 making several inquiries, Richardson was informed that the allegations and findings
9 were:

10 **Allegations and Findings**

11 Allegation 1: You intentionally misused pronouns in a mocking
12 manner for Jamie MacArthur 8 times in an email exchange on
October 18, 2021.

13 Finding: Sustained.

14 Analysis: Dr. MacArthur stated that they sent an email to you on
15 October 18, 2021 regarding the pronouns that were displayed on your
16 Zoom profile. Dr. MacArthur alleged that you replied to the email on
17 October 18, 2021 using the third person pronouns of "they/them" in
18 place of the second-person "you", and using the third-person
pronouns "Do-Re-Mi" in place of the first-person pronoun "I" 8
different times.

19 The investigator found that it is more likely than not that you sent the
20 email to Dr. MacArthur on October 18, 2021 intentionally using
second- and third-person pronouns in a mocking manner.

21 Allegation 2: You retaliated against Dr. MacArthur for bringing up
22 concerns related to your use of pronouns in a Zoom meeting, and for
23 attempting to seek an informal resolution through Human Resources.

24 Finding: Sustained.

25

1 Analysis: Dr. MacArthur alleged that you sent a series of emails to
2 Madera Community College faculty, staff, administrators, and
3 Human Resources representatives as retaliation for seeking an
4 informal resolution through Human Resources, as a way to
intimidate Dr. MacArthur into dropping their complaint.

5 The investigator found that it is more likely than not that the emails
6 you sent to Madera Community College faculty, staff,
7 administrators, and Human Resources representatives were sent as
8 retaliation for Dr. MacArthur attempting to seek an informal
9 resolution through Human Resources, as a way to intimidate Dr.
MacArthur into dropping their complaint.

10 40. The Findings are specious. First, the Findings ignore that Richardson's
11 response came after, and in the context of, JM's email taking Richardson to task for
12 daring to use PGP that JM felt were inappropriate or joking. In his response,
13 Richardson was not mocking JM; he was making the point that the attempt by one
14 group to dictate PGP for other groups based on arbitrary and subjective
15 identifications is absurd and undermines communication. This was an
16 academic/scholarly subject that fell within Richardson's zone of academic freedom
17 and free expression. At no time was Richardson advised that his private *response* to
18 a private email accusing him of ignorance and rudeness would be vetted for
"harassment."

19 41. Likewise, Richardson did not retaliate against JM by sending a copy of his
20 response to James Young to interested faculty members. Upon being contacted by
21 a member of SCCCD's administration, Richardson concluded that the issue involved
22 the SCCCD faculty community. Richardson was not aware of any policy infringing
23 on his right of free speech and association that would have prevented him from
24 sharing his communications with James Young with such faculty. Richardson
25

1 reached out to such interested faculty only after JM had taken the private discussion
2 to the administration.

3 **C. DISCIPLINE.**

4 42. On May 17, 2022, David Richardson was called into a meeting with Vice
5 President of Learning and Student Services Dr. Marie Harris (“Dr. Harris.”) Dr.
6 Harris gave Richardson a copy of a Letter of Reprimand the “Letter.” A copy of the
7 Letter of Reprimand was placed in Richardson’s file.

8 43. The Letter advised:

9 This letter is to address concerns regarding your recent
10 unprofessional conduct. State Center Community College District
11 received a Sexual Harassment/Gender Discrimination complaint on
12 December 1, 2021, and the investigation determined that you
13 intentionally misused pronouns in a mocking manner with a
14 colleague and that you retaliated against that colleague for bringing
15 their concerns to the attention of the District and seeking an informal
16 resolution through Human Resources.

17 44. This conclusion was specious in that Richardson had no knowledge that JM
18 had brought the relevant issue to the attention of the District and he had not
19 “intentionally misused pronouns in a mocking manner.”

20 45. Richardson was instructed:

21 You are directed to immediately stop using pronouns in a
22 mocking manner in the workplace. You are to exhibit basic standards
23 of conduct and act professionally when you interact with employees
24 and students of this District, including in written exchanges via
25 email. Further failure of this type or similar unprofessional behavior
may result in disciplinary action, and as stated in BP 3430, may lead
to termination.

46. As punishment, Richardson was directed:

In an effort to assist you in overcoming these deficiencies,
you will comply with each of the following directives:

1 1) You will communicate with your coworkers and students in
2 accordance with basic standards of professional conduct effective
3 immediately.

4 2) You will adhere to all provisions of the Board Policies and
5 Administrative Procedures of the District, and the SCFT collective
6 bargaining agreement between the District and the State Center
7 Federation of Teachers, Local 1533, particularly the provisions of
8 Article XIII, Section 3, 2, b, which incorporates the ethical standards
9 in of the American Association of University Professors.

10 3) You will complete six (6) hours of Diversity, Equity, and
11 inclusion training by September 9, 2022. Once you complete each
12 training, you must submit proof of completion to me via email. Log
13 in to the Vision Resource Center to access the trainings and then
14 search for the learning module title.

15 a) How to be more inclusive

16 b) Promoting Respect in the Workplace for Employees

17 c) Diversity, Inclusion, and Belonging

18 d) Creating a Positive and Healthy Work Environment

19 e) Inclusive Mindset

20 f) I Don't See Color, I Just See People: Becoming Culturally
21 Competent

22 g) Playing Behind the Screen: The Implicit Bias in Our
23 Colleges

24 4) You will complete the Equity and the LGBTQIA+
25 Community Challenge which requires you to read, watch, and
engage provided resources.

[https://unitedwaysem.org/equity_ challenge/day-18-equity-
and-the-lgbtq-community/](https://unitedwaysem.org/equity_challenge/day-18-equity-and-the-lgbtq-community/)

Once you complete the directive, you must provide a written
response to me via email by September 9, 2022, responding to
reflection questions.

a) How did the material make you feel? What did you learn
from the material?

1 b) What are ways you can create a more inclusive environment
2 that does not center on homophobia or transphobia? Think of your
3 school, workplace, home, religious group, etc.

4 47. This discipline constituted punishment in that it exceeded any reasonable
5 relationship to the alleged offense. In particular, although Richardson was alleged to
6 have frightened a pre-operative transexual and Richardson is homosexual, he was
7 assigned to receive indoctrination on racism and making his environment, including
8 his home and religious group, one “that does not center on homophobia.” The scope
9 of this ideological training impermissibly burdened Richardson’s right of privacy
10 and constituted more viewpoint discrimination in that there was no basis to assume
11 that Richardson was “homophobic” and SCCCD’s remit does not extend to homes
12 and religious groups. Richardson has actually completed a portion of the so-called
13 training assigned to him.

14 48. Richardson was also informed at the meeting with Harris that SCCCD had an
15 unwritten PGP policy and that he could use his own PGP so long as they were not
16 deemed “mocking.” SCCCD’s representatives were unable to provide a definition
17 of mocking that was not subjectively based on the feelings of an objecting person
18 who does not feel that the subject is being treated solemnly enough.

18 **D. PRONOUN POLICY**

19 49. Prior to the Findings, SCCCD had not published a policy on pronouns. The
20 mandatory College Hour was presented as offering tips on “etiquette,” which
21 generally means “the set of conventional rules of personal behavior in polite society,
22 usually in the form of an ethical code that delineates the expected and accepted social
23 behaviors that accord with the conventions and norms observed by a society, a social
24 class, or a social group.” (Wiki - <https://en.wikipedia.org/wiki/Etiquette> .)
25 Richardson understood that JM was offering his own beliefs about how society

1 should apply the new and untested rules of PGP, not that such rules had become a
2 social convention or that anyone was required to adhere to this convention.

3 50. In addition, in his meeting with SCCCD to obtain the Findings, Richardson
4 was told by SCCCD that the problem had been that Richardson was “mocking JM”
5 by using the pronouns that Richardson had selected. Richardson was not “mocking
6 JM.” The implication left by SCCCD’s representatives was that if Richardson was
7 not “mocking JM” he could use the pronouns he had selected. When Richardson
8 asked SCCCD’s representatives for how they would determine if someone’s mental
9 state was to “mock” a person, SCCCD’s representatives were unable to provide a
10 definition or mechanism to intuit the subjective mental state of a speaker.

11 51. As a result, Richardson and others are chilled in their speech because of the
12 arbitrary and vague nature and application of the pronoun policy.

13 **E. VIEWPOINT DISCRIMINATION.**

14 52. Viewpoint discrimination by the government is impermissible. When the
15 government targets not subject matter, but particular views taken by speakers on a
16 subject, the violation of the First Amendment is all the more blatant." (*Rosenberger*
17 *v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829, 115 S. Ct. 2510, 132 L.
18 Ed. 2d 700 (1995) "Viewpoint discrimination is thus an egregious form of content
19 discrimination," one from which "[t]he government must abstain." *Id.* The
20 government may not regulate speech based on "the specific motivating ideology or
21 the opinion or perspective of the speaker," *id.*; nor may it "favor some viewpoints or
22 ideas at the expense of others," (*Members of City Council v. Taxpayers for Vincent*,
23 466 U.S. 789, 804, 104 S. Ct. 2118, 80 L. Ed. 2d 772 (1984). The Ninth Circuit
24 recognizes the longstanding principles that instruct that "government may not favor
25 speakers on one side of a public debate." (*Hoye v. City of Oakland*, 653 F.3d 835,
849 (9th. Cir. 2011); *Moss v. United States Secret Serv.* (9th Cir. 2012) 675 F.3d
1213, 1223.)

1 53. A restriction on speech is viewpoint-based if (1) on its face, it distinguishes
2 between types of speech or speakers based on the viewpoint expressed; or (2) though
3 neutral on its face, the regulation is motivated by the desire to suppress a particular
4 viewpoint. (See *Berger v. City of Seattle*, 569 F.3d 1029, 1051 (9th Cir. 2009) (en
5 banc) (citing *Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 642-43, 114 S. Ct. 2445,
6 129 L. Ed. 2d 497 (1994); *ACLU v. City of Las Vegas*, 466 F.3d 784, 793 (9th Cir.
7 2006) (citing *Ward v. Rock Against Racism*, 491 U.S. 781, 791, 109 S. Ct. 2746, 105
8 L. Ed. 2d 661 (1989); *Moss v. United States Secret Serv.* (9th Cir. 2012) 675 F.3d
9 1213, 1224.)

10 54. By investigating Stannard and not investigating the people he was speaking
11 to, SCCCD engaged in invidious viewpoint discrimination. In the conversation at
12 the faculty training session, Stannard was told that the behavior of Trump supporters
13 on January 6 was execrable. Stannard's response was that black store owners during
14 the BLM riots were equally subjected to bad behavior. In sum, one side of the
15 conversation (the "Progressive side") was that conservatives/Republicans/Trump
16 supporters should be condemned for January 6 and the other side of the conversation
17 (the "Conservative side") voiced the position that rioters during the BLM riots of
18 2020 should similarly be condemned. SCCCD chose to ignore the Progressive side's
19 involvement in the discussion, which was not investigated for possible harassment
20 and discrimination because of SCCCD's embrace of a policy and practice of
21 viewpoint discrimination.

22 55. Likewise, the second conversation at the Justice and Healing Circle also
23 involved the exchange of different political positions. After the nuclear family had
24 been criticized, Dr. Stannard offered an explanation about why the nuclear family
25 had merit. Again, SCCCD ignored the fact that there were two sides to the discussion
and treated the side that Stannard was espousing as impermissible.

1 56. Similarly, with respect to Richardson, SCCCD ignored that there was a
2 conversation with two sides and that Richardson's position expressed viewpoints
3 that mirrored the position of JM. Thus, after JM chose to speak to third parties,
4 Richardson chose to speak to third parties. After JM announced that he could create
5 his own grammatically confusing PGP, Richardson chose to do so as well. Again,
6 SCCCD ignored JM's speech actions but chose to punish the identically mirroring
7 speech of Richardson.

8 57. Plaintiffs are also informed that SCCCD distinguished between the speech
9 involved based on the viewpoints expressed. Plaintiffs are further informed and
10 believe and therefore allege that SCCCD's policies and conduct were motivated by
11 an animus against the "conservative" side of the debate.

12 **F. CHILLING THE EXERCISE OF FREE SPEECH.**

13 58. Plaintiffs' exercise of their free speech rights has been chilled by SCCCD's
14 actions. Dr. Stannard has withdrawn from social justice circles and other forms of
15 social interaction on his own time because of this incident and being told by SCCCD
16 that he might be held liable for his private and personal speech on his own time in
17 activities sponsored by SCCCD. Likewise, he has censored himself during activities
18 related to mandatory trainings, although he hears constant attacks on conservatives,
19 religious, traditional and, in general, non-leftist viewpoints.

20 59. Richardson likewise has engaged in self-censorship.

21 **G. ACADEMIC FREEDOM**

22 60. "Academic freedom, though not a specifically enumerated constitutional
23 right, long has been viewed as a special concern of the First Amendment."
24 (*University of California Regents v. Bakke*, 438 U.S. 265, 312, 98 S. Ct. 2733, 57 L.
25 Ed. 2d 750 (1978); see also *Keyishian v. Board of Regents*, 385 U.S. 589, 603, 87 S.
Ct. 675, 17 L. Ed. 2d 629 (1967) (academic freedom is "a special concern of the First

1 Amendment, which does not tolerate laws that cast a pall of orthodoxy over the
2 classroom"). The roots of academic freedom are found in the first amendment insofar
3 as it protects against infringements on a teacher's freedom concerning classroom
4 content and method." (*Hillis v. Stephen F. Austin State University*, 665 F.2d 547,
5 553 (5th Cir. 1982))

6 61. The Supreme Court has repeatedly stressed the importance of protecting
7 academic freedom under the First Amendment. It wrote in *Keyishian*:

8 Our Nation is deeply committed to safeguarding academic freedom, which is
9 of transcendent value to all of us and not merely to the teachers concerned.
10 That freedom is therefore a special concern of the First Amendment, which
11 does not tolerate laws that cast a pall of orthodoxy over the classroom. "The
12 vigilant protection of constitutional freedoms is nowhere more vital than in
13 the community of American schools."

14 *Id.* at 603 (*quoting Shelton v. Tucker*, 364 U.S. 479, 487, 81 S. Ct. 247, 5 L. Ed. 2d
15 231 (1960)). It had previously written to the same effect in *Sweezy v. New
Hampshire*:

16 The essentiality of freedom in the community of American universities is
17 almost self-evident. . . . To impose any strait jacket upon the intellectual
18 leaders in our colleges and universities would imperil the future of our Nation.
19 . . . Scholarship cannot flourish in an atmosphere of suspicion and distrust.
20 Teachers and students must always remain free to inquire, to study and to
21 evaluate, to gain new maturity and understanding; otherwise our civilization
will stagnate and die.

22 354 U.S. 234, 250, 77 S. Ct. 1203, 1 L. Ed. 2d 1311 (1957). More recently, the Court
23 wrote in *Grutter v. Bollinger*, "We have long recognized that, given the important
24 purpose of public education and the expansive freedoms of speech and thought
25 associated with the university environment, universities occupy a special niche in

1 our constitutional tradition." 539 U.S. 306, 329, 123 S. Ct. 2325, 156 L. Ed. 2d 304
2 (2003); see also *Rust v. Sullivan*, 500 U.S. 173, 200, 111 S. Ct. 1759, 114 L. Ed. 2d
3 233 (1991) ("[T]he university is . . . so fundamental to the functioning of our society
4 that the Government's ability to control speech within that sphere by means of
5 conditions attached to the expenditure of Government funds is restricted by the
6 vagueness and overbreadth doctrines of the First Amendment."); See *Rosenberger*
7 *v. Rector and Visitors of the Univ. of Va.*, 515 U.S. 819, 835, 115 S. Ct. 2510, 132
8 L. Ed. 2d 700 (1995) (stating that the university has a "background and tradition of
9 thought and experiment that is at the center of our intellectual and philosophic
10 tradition"); *Papish v. Bd. of Curators of Univ. of Mo.*, 410 U.S. 667, 671, 93 S. Ct.
11 1197, 35 L. Ed. 2d 618 (1973) (per curiam) (stating that "the First Amendment leaves
12 no room for the operation of a dual standard in the academic community with respect
13 to the content of speech").

13 62. The Ninth Circuit has held that the envelope of academic freedom is
14 expansive, to wit: "We therefore doubt that a college professor's expression on a
15 matter of public concern, directed to the college community, could ever constitute
16 unlawful harassment and justify the judicial intervention that plaintiffs seek."
17 (*Rodriguez v. Maricopa County Cmty. College Dist.* (9th Cir. 2009) 605 F.3d 703,
18 710.)

19 **H. SCCCD'S POLICIES CHILL THE EXERCISE OF FREE SPEECH.**

20 63. The chilling effect on plaintiffs' free speech through the unequal application
21 of the SCCCD's policies is exacerbated by the vagueness and ambiguity of
22 SCCCD's AR 3430 (Prohibition of Harassment) and AR 3435 (Discrimination,
23 Harassment, Retaliation, and Sexual Misconduct, Complaints and Investigations.)

24 64. AR 3435 includes the following definition of "discrimination":
25

1 "Discrimination" includes the unfair or unjust treatment of an
2 individual based on certain protected characteristics that adversely
3 affects their employment or academic experience. An adverse action
4 for discrimination purposes is any action taken or pattern of conduct
5 that, taken as a whole, materially and adversely affected the terms,
6 conditions, privileges, benefits of or the ability to fully participate in
7 activities or events associated with an individual's employment or
8 academic environment. An adverse action includes conduct that is
9 reasonably likely to impair a reasonable individual's work or
10 academic performance or prospects for advancement or promotion.
11 However, minor or trivial actions or conduct that are not reasonably
12 likely to do more than anger or upset an individual cannot constitute
13 an adverse action.

14 65. "Protected Characteristics" are defined in AR 3435 as:

15 "Protected Characteristics" include race, color, ethnicity, national
16 origin, ancestry, religious creed, age, sex/gender, gender identity,
17 gender expression, medical condition, pregnancy, sexual orientation,
18 marital status, physical/mental disability, genetic information,
19 military/ veteran status, or opposition to unlawful discrimination or
20 harassment, or because they are perceived to have one or more of
21 those foregoing characteristics.

22 66. AR 3435 includes the following definition of "harassment":

23 "Harassment" includes conduct based on certain protected
24 characteristics that creates a hostile, offensive, oppressive, or
25 intimidating work or educational environment and deprives a person
of their statutory right to work or learn in an environment free from
harassment. In the workplace, harassment also includes conduct
based on certain protected classes that sufficiently offends,
humiliates, distresses, or intrudes upon a person, so as to disrupt the
person's emotional tranquility in the workplace, affect their ability to
perform the job as usual, or otherwise interfere with and undermine
their personal sense of well-being. (Refer to AR 3430 - Prohibition
of Harassment for specific examples of harassment).

67. The definition of "harassment" is vague and inaccurate in that it includes a
partial legal definition of "harassment." The definition of "harassment" has always

1 included a subjective and an objective element. The harassment must satisfy an
2 objective and a subjective standard. (*Ortiz v. Dameron Hospital Assn.* (2019) 37
3 Cal.App.5th 568, 582-583.) (“[T]he objective severity of harassment should be
4 judged from the perspective of a reasonable person in the plaintiff’s position,
5 considering ‘all the circumstances.’ ...” (*Miller v. Department of Corrections*,
6 *supra*, 36 Cal.4th at p. 462.) And, subjectively, an employee must perceive the work
7 environment to be hostile. [Citation.] Put another way, “[t]he plaintiff must prove
8 that the defendant’s conduct would have interfered with a reasonable employee’s
9 work performance and would have seriously affected the psychological well-being
10 of a reasonable employee and that [she] was actually offended.” [Citation.]” (*Hope*
11 *v. California Youth Authority* (2005) 134 Cal.App.4th 577, 588.”) While the
12 legislature endorses a subjective definition of “harassment that “includes conduct
13 based on certain protected classes that sufficiently offends, humiliates, distresses, or
14 intrudes upon a person, so as to disrupt the person’s emotional tranquility in the
15 workplace, affect their ability to perform the job as usual, or otherwise interfere with
16 and undermine their personal sense of well-being” (Government Code §12933), this
17 subjective definition has always been paired with an objective element requiring
18 that the harassing conduct be persistent, pervasive, and/or severe from the
19 perspective of a person with the same protected characteristics as the complaining
20 party. (*Caldera v. Department of Corrections & Rehabilitation* (2018) 25
21 Cal.App.5th 31, 38 (“All harassment claims require severe or pervasive conduct.”);
22 4 California Forms of Jury Instruction 2523 (2022); 4 California Forms of Jury
23 Instruction 2524 (2022).)

22 68.AR 3435 equates “harassment” with subjectively “unwelcome” conduct, as
23 can be seen in the following language:

24
25 **Communicating that the Conduct is Unwelcome**

1 When a person experiences unwelcome conduct, the District
2 encourages employees, students, and third parties to let the offending
3 person know immediately and clearly that the conduct or behavior is
unwelcome, offensive, in poor taste and/or inappropriate.

4 69. On its face, AR 3435 is vague and overbroad for the following reasons.

5 70. First AR 3435 is vague because it purports to provide a definition of
6 harassment that ignores elements that substantially qualify the language of the
7 policy.

8 71. Second, it is overbroad because by providing only the subjective element that
9 defines harassment as “conduct” that is “unwelcome” or “offends” the complainer,
10 it extends to speech that is protected by the First Amendment even though such
11 speech might be unwelcome or offend the hearer.

12 72. Third, the conduct complained of could not have been pervasive, persistent,
13 or severe since the alleged conduct was a single verbal statement that shared
14 information. The only way that the conduct could have been deemed “pervasive,
15 persistent or severe” is if SCCCD employed a subjective standard whereby the
16 subjective experience of the alleged harassed person defined harassment. This is
17 consistent with the questions Dr. Stannard was asked about whether he was aware
of someone crying with rage at one of his statements.

18 73. A further circumstance is that SCCCD has embraced and implemented “anti-
19 racism” and similar ideologies as part of its official philosophy. Dr. Stannard and
20 other SCCCD have been required to attend “anti-racist” trainings. SCCCD’s
21 webpage on “Justice, Equity, Diversity, Inclusion and Equal Employment
22 Opportunities” refers to and recommends “Resources” including a “Code of Ethics
23 for White Anti-Racists” and “For our White Friends Desiring to be Allies.” The
24 Equity, Diversity and Inclusion also recommended as a “resource” the LeftRoots
25 website, which is an overt leftwing website. In 2021, SCCCD required its faculty to
read Ibrahim X. Kendi’s “How to be an Anti-Racist.” The gist of this ideology is

1 that there is a thing called “whiteness” that subsists in “whites” and makes them
2 intrinsically “racist” against “People of Color.” “Whites” who want to “do the work”
3 against “whiteness” must acknowledge their “racism” and not merely refrain from
4 “racism” but confess their own “racism” and publicly condemn “racism” wherever
5 it is discerned. A problem with this ideology is that the term “racism” is not
6 rigorously defined but often roughly defines “racism” as political and philosophical
7 positions that are not consistent with contemporary leftwing political positions⁶.

8 74. These features are consistent with the fact that Dr. Stannard was subject to an
9 investigation for harassment based on (a) a comment about the harm done to black
10 business owners during the 2020 riots and (b) his statement that children did best in
11 families with their biological parents. Neither statement implicates any protected
12 class, but under an “anti-racist” approach, statements that do not publicly agree with
13 an undefined set of partisan political positions is construed as “racist” if the
14 statement is objected to by someone claiming to be an “anti-racist.”

15 75. A final factor is that SCCCD’s policy on Academic Freedom is vague. AR
16 4030 states:

17 The District is unequivocally and unalterably committed to the
18 principle of academic freedom in its true sense which includes
19 freedom to study, freedom to learn and freedom to teach and provide
20 educational professional services to students... Faculty must,
21 however, accept the responsibility that accompanies academic
22 freedom. The right to exercise any liberty implies a duty to use it
23 responsibly. Academic freedom does not give faculty freedom to
24 engage in indoctrination. Nor can faculty invoke the principle of
25 academic freedom to justify non-professional conduct.

24 ⁶ “Capitalism is essentially racist; racism is essentially capitalist. They were birthed together from the same unnatural
25 causes, and they shall one day die together from unnatural causes. Or racial capitalism will live into another epoch of
theft and rapacious inequity, especially if activists naively fight the conjoined twins independently, as if they are not
the same”. (Kendi, Ibram X.. How to Be an Antiracist (p. 163). Random House Publishing Group. Kindle Edition.)

1 76.SCCCD does not define professional conduct or where academic freedom
2 ends and “responsibility that accompanies academic freedom” begins.

3 77.As a result of this vagueness, SCCCD’s “harassment” policy has been
4 unconstitutionally applied to speech protected by the First Amendment.

5 78.Richardson has exhausted all required administrative steps. He has filed a
6 Government Claim against SCCCD which has been rejected within 6 months of
7 filing the action for damages against SCCCD. He has also obtained a right to sue
8 against SCCCD from the Department of Fair Employment and Housing.

9 **II. FIRST CAUSE OF ACTION : VIOLATION OF THE FIRST**
10 **AMENDMENT (AGAINST MOSIER AND GOLDSMITH IN THEIR**
11 **OFFICIAL CAPACITY.)**

12 79.Plaintiffs incorporate each and every allegation contained in the Background
13 Allegations.

14 80.“The Constitution embraces such a heated exchange of views, even (perhaps
15 especially) when they concern sensitive topics like race, where the risk of conflict
16 and insult is high. (See *R.A.V. v. City of St. Paul*, 505 U.S. 377, 391, 112 S. Ct. 2538,
17 120 L. Ed. 2d 305 (1992). Without the right to stand against society's most strongly
18 held convictions, the marketplace of ideas would decline into a boutique of the banal,
19 as the urge to censor is greatest where debate is most disquieting and orthodoxy most
20 entrenched. See, e.g., *Gitlow v. New York*, 268 U.S. 652, 667, 45 S. Ct. 625, 69 L.
21 Ed. 1138 (1925); *id.* at 673 (Holmes, J., dissenting). The right to provoke, offend
22 and shock lies at the core of the First Amendment.” (*Rodriguez v. Maricopa County*
Cmty. College Dist. (9th Cir. 2009) 605 F.3d 703, 708.)

23 81.“This is particularly so on college campuses. Intellectual advancement has
24 traditionally progressed through discord and dissent, as a diversity of views ensures
25 that ideas survive because they are correct, not because they are popular. Colleges

1 and universities--sheltered from the currents of popular opinion by tradition,
2 geography, tenure and monetary endowments--have historically fostered that
3 exchange. But that role in our society will not survive if certain points of view may
4 be declared beyond the pale. "Teachers and students must always remain free to
5 inquire, to study and to evaluate, to gain new maturity and understanding; otherwise
6 our civilization will stagnate and die." (*Keyishian v. Bd. of Regents of the Univ. of*
7 *the State of N.Y.*, 385 U.S. 589, 603, 87 S. Ct. 675, 17 L. Ed. 2d 629 (1967) (quoting
8 *Sweezy v. New Hampshire*, 354 U.S. 234, 250, 77 S. Ct. 1203, 1 L. Ed. 2d 1311
9 (1957)). We have therefore said that "[t]he desire to maintain a sedate academic
10 environment . . . [does not] justify limitations on a teacher's freedom to express
11 himself on political issues in vigorous, argumentative, unmeasured, and even
12 distinctly unpleasant terms." (*Adamian v. Jacobsen*, 523 F.2d 929, 934 (9th Cir.
13 1975).)" (*Rodriguez v. Maricopa County Cmty. College Dist.* (9th Cir. 2009) 605
14 F.3d 703, 708-709.)

15 82. "There is no categorical 'harassment exception' to the First Amendment's
16 free speech clause." (*Saxe v. State Coll. Area Sch. Dist.*, 240 F.3d 200, 204 (3d Cir.
17 2001) (Alito, J.). Rather, "[t]he right to provoke, offend and shock lies at the core of
18 the First Amendment. This is particularly so on college campuses. Intellectual
19 advancement has traditionally progressed through discord and dissent, as a diversity
20 of views ensures that ideas survive because they are correct, not because they are
21 popular." (*Rodriguez v. Maricopa Cty. Cmty. Coll. Dist.*, 605 F.3d 703, 708 (9th Cir.
22 2010). "[I]f it is the speaker's opinion that gives offense, that consequence is a reason
23 for according it constitutional protection." (*Hustler Magazine, Inc. v. Falwell*, 485
24 U.S. 46, 55 (1988).

25 83. In *Rodriguez v. Maricopa County Cmty. College Dist.* (9th Cir. 2009) 605
F.3d 703, 710, the Ninth Circuit held:

1 We therefore doubt that a college professor's expression on a matter
2 of public concern, directed to the college community, could ever
3 constitute unlawful harassment and justify the judicial intervention
4 that plaintiffs seek. See Eugene Volokh, Comment, Freedom of
5 Speech and Workplace Harassment, 39 UCLA L. Rev. 1791, 1849-
6 55 (1992). Harassment law generally targets conduct, and it sweeps
7 in speech as harassment only when consistent with the First
8 Amendment. See *R.A.V.*, 505 U.S. at 389-90. For instance, racial
9 insults or sexual advances directed at particular individuals in the
10 workplace may be prohibited on the basis of their non-expressive
11 qualities, *Saxe*, 240 F.3d at 208, as they do not "seek to disseminate
12 a message to the general public, but to intrude upon the targeted
13 [listener], and to do so in an especially offensive way," *Frisby v.*
14 *Schultz*, 487 U.S. 474, 486, 108 S. Ct. 2495, 101 L. Ed. 2d 420
15 (1988). See, e.g., *Flores*, 324 F.3d at 1133, 1135; *Meritor Sav. Bank,*
16 *FSB v. Vinson*, 477 U.S. 57, 60, 73, 106 S. Ct. 2399, 91 L. Ed. 2d 49
17 (1986). But *Kehowski's* website and emails were pure speech; they
18 were the effective equivalent of standing on a soap box in a campus
19 quadrangle and speaking to all within earshot. Their offensive
20 quality was based entirely on their meaning, and not on any conduct
21 or implicit threat of conduct that they contained. (.)

22 84. SCCCD's discriminatory harassment policy is unconstitutionally
23 overbroad. By its terms, the policy plainly applies to protected speech. And
24 virtually any opinion or political belief—as well as any use of humor, satire, or
25 parody—could be perceived as “harassing” or “humiliating.”

85. While a university might be able to prohibit harassment that amounts to
“discrimination” against a protected class that is “so severe, pervasive, and
objectively offensive that it can be said to deprive the victims of access to the
educational opportunities or benefits provided by the school,” (*Davis ex rel.*
LaShonda D. v. Monroe Cty. Bd. of Educ., 526 U.S. 629, 650 (1999)), as applied,
the SCCCD's verbal-harassment rule goes far beyond that to censor speech
protected by the First Amendment.

1 86. The Supreme Court has also consistently recognized the “substantial and
2 expansive threats to free expression posed by content-based restrictions.” (*United*
3 *States v. Alvarez*, 567 U.S. 709, 717 (2012). “Content-based regulations are”
4 therefore “presumptively invalid.” (*R.A.V. v. City of St. Paul*, 505 U.S. 377, 382
5 (1992). “[A]ny restriction based on the content of the speech must satisfy strict
6 scrutiny, that is, the restriction must be narrowly tailored to serve a compelling
7 government interest.” (*Pleasant Grove City v. Summum*, 555 U.S. 460, 469 (2009).)

8 87. “The First Amendment’s hostility to content-based regulation extends” to
9 “restrictions on particular viewpoints.” (*Reed v. Town of Gilbert*, 135 S. Ct. 2218,
10 2230 (2015)). Policies cannot “suppress disfavored speech.” (*Id.* at 2229.)
11 Viewpoint discrimination is flatly prohibited. (See *Iancu v. Brunetti*, 139 S. Ct.
12 2294, 2302 (2019).)

13 88. By restricting speech about academic subjects that might be interpreted as
14 involving personal characteristics such as race, ethnicity, or gender, SCCCD’s
15 discriminatory-harassment policy is a content-based and viewpoint-based
16 restriction on protected speech. SCCCD has no compelling interest in suppressing
17 the unfettered exchange of viewpoints. Even if SCCCD could identify a compelling
18 interest, its viewpoint-discriminatory ban is not narrowly tailored to further that
19 interest.

20 89. SCCCD’s policies also violated the rights of Plaintiffs and other instructors
21 under the First and Fourteenth Amendments by burdening their speech on the basis
22 of the viewpoints expressed with lengthy investigations during which Plaintiffs’
23 ability to freely express themselves was chilled by the prospect that if they said
24 anything inconsistent with the viewpoints allowed by SCCCD or leftwing
25 instructors such statements would be used against them. Both of plaintiffs’
academic freedom and right of free speech was also burdened on the basis of
viewpoint discrimination in that in both cases, in that they received either a warning

1 or a discipline based on speech that fell within Plaintiffs' First
2 Amendment/Academic Freedom rights, while those who made equivalent
3 statements with viewpoints that were supported by SCCCD were not warned or
4 disciplined. Hence, Richardson was subjected to discipline and Stannard was told
5 by Lori Bennett, President of Clovis Community College:

6 While your comments did not rise to the level of discrimination in
7 violation of District policy, the investigative interviews
8 demonstrated that some employees were offended by your
9 comments. I encourage you, and all employees, to demonstrate
10 empathy toward others and to reflect on how statements we make
may impact others to ensure that we are creating an inclusive
working and learning environment for all employees and students.

11 90. Stannard was also warned that if he "retaliated" against the unknown
12 complainants, he would be subject to discipline and that:

13 "State Center Community College District does not condone
14 harassment, discrimination, unprofessional conduct, or other
15 misconduct in the workplace or educational environment and takes
16 such complaints seriously. The District has a strong policy
prohibiting discrimination, harassment, and retaliation and a
thorough investigation has been conducted of this complaint."

17 91. Plaintiff is informed and believes that the other people participating in the
18 discussions with Plaintiff were not accused of harassment, that they were not
19 investigated, that they were not interviewed and asked questions that assumed they
20 were racist based on the color of their skin, and were not told that their statements
21 "did not rise to the level of a discrimination in violation of District policy" without
22 providing context for how such statement could ever rise to that level, and were not
23 thereafter told that their statement "offended" other people – as if that were a
24 relevant criteria in an academic discussion – or told to "demonstrate empathy." A
25 reasonable person would believe – and Stannard did believe – that he was being

1 singled out because of the contents of his statement for disparate treatment designed
2 to warn, threaten and chill his speech with threats that some future statement made
3 in an academic discussion to some other person making a statement might “rise to
4 the level of a discrimination in violation of District policy” and result in the
5 threatened sanctions being imposed on him.

6 92. In addition, the application of SCCCD’s policies, including AR 3435, has
7 been applied in the case of the Plaintiffs to speech that is constitutionally protected.
8 As such SCCCD’s harassment-discrimination policies are unconstitutional as
9 applied.

10 93. In addition, the discipline imposed on Richardson violated the First and
11 Fourteenth Amendments to the United States Constitution in that they bore no
12 reasonable relationship to any constitutionally permitted objective or condition of
13 the employment relationship but instead unconstitutionally burdened Richardson’s
14 academic freedom and right to free speech by, inter alia, imposing viewpoint
15 discrimination on Richardson and forcing him to mouth and/or accept the tenets of
16 a sectarian political position.

17 94. Defendant adopted this unconstitutional policy under color of state law. This
18 action is brought pursuant to 42 USC §1983 for prospective relief, injunctive relief
19 and declaratory relief. Plaintiffs are entitled to attorney’s fees pursuant to 42 USC
20 §1988(b).

21 **III. SECOND CAUSE OF ACTION: VIOLATION OF FIRST AND**
22 **FOURTEENTH AMENDMENTS (AGAINST MOSIER AND**
23 **GOLDSMITH IN THEIR OFFICIAL CAPACITY.**

24 95. Plaintiffs incorporate each and every allegation contained in paragraphs 1
25 through 94, inclusive, of this Complaint.

96. “It is a basic principle of due process that an enactment is void for vagueness
if its prohibitions are not clearly defined.” (*Grayned v. City of Rockford*, 408 U.S.

1 104, 108 (1972)). “[T]he vagueness doctrine has two primary goals: (1) to ensure
2 fair notice to the citizenry and (2) to provide standards for enforcement [by
3 officials].” (*Ass’n of Cleveland Fire Fighters v. City of Cleveland*, 502 F.3d 545, 551
4 (6th Cir. 2007); see also *In re Hunt*, 835 F.3d 1277, 1279 (11th Cir. 2016) (An
5 “impossibly vague” law or regulation “guarantees arbitrary enforcement of the law
6 and denial of fair notice to the public.”).)

7 97. With respect to the first goal, ... “[a] statute which either forbids or requires
8 the doing of an act in terms so vague that [individuals] of common intelligence must
9 necessarily guess at its meaning and differ as to its application, violates the first
10 essential of due process of law.” (Id. (quoting *Connally v. Gen. Constr. Co.*, 269
11 U.S. 385, 391 (1925).) “With respect to the second goal, ... ‘if arbitrary and
12 discriminatory enforcement is to be prevented, laws must provide explicit standards
13 for those who apply them. A vague law impermissibly delegates basic policy matters
14 to [officials] for resolution on an ad hoc and subjective basis.’” (Id. (quoting
15 *Grayned*, supra, 408 U.S., at 108-09).)

16 98. This principle of clarity is especially demanding when First Amendment
17 freedoms are at stake. If the challenged law “interferes with the right of free speech
18 or of association, a more stringent vagueness test should apply.” (*Village of Hoffman*
19 *Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 499 (1982). “Certainty is
20 all the more essential when vagueness might induce individuals to forego their rights
21 of speech, press, and association for fear of violating an unclear law.” (*Scull v. Va.*
22 *ex rel. Comm. on Law Reform & Racial Activities*, 359 U.S. 344, 353 (1959).)

23 99. SCCCD discrimination-harassment policy lacks any definitions, detail,
24 context, or notice to faculty about what sorts of language the University views as
25 “harassing,” “invasive,” or “unwanted.” The only clue the policy provides is that the
acceptability of certain communications turns on what an observer or recipient

1 subjectively perceives as “unwelcome.” This provision is “impossibly vague” and
2 therefore unconstitutional.”

3 100. In addition, the application of SCCCD’s policies, including AR 3435,
4 has been applied in the case of the Plaintiffs to speech that is constitutionally
5 protected. As such SCCCD’s harassment-discrimination policies are
6 unconstitutional as applied.

7 101. Defendant adopted this unconstitutional policy under color of state
8 law. This action is brought pursuant to 42 USC §1983 for prospective relief,
9 injunctive relief, and declaratory relief. Plaintiffs are entitled to attorney’s fees
10 pursuant to 42 USC §1988(b).

11 **IV. THIRD CAUSE OF ACTION: VIOLATION OF LABOR CODE**
12 **§1102.5 (AGAINST SCCCD.)**

13 102. Plaintiff Richardson (for the Third through Eighth Cause of Action,
14 the term “Plaintiff” will refer to “Plaintiff Richardson”) incorporates each and
15 every allegation contained in paragraphs 1 through 101, inclusive, of this
16 Complaint.

17 Labor Code Section 1102.5 provides in relevant part:

18 a. An employer, or any person acting on behalf of the employer,
19 shall not make, adopt, or enforce any rule, regulation, or policy
20 preventing an employee from disclosing information to a
21 government or law enforcement agency, to a person with authority
22 over the employee, or to another employee who has authority to
23 investigate, discover, or correct the violation or noncompliance, or
24 from providing information to, or testifying before, any public body
25 conducting an investigation, hearing, or inquiry, if the employee has
reasonable cause to believe that the information discloses a violation
of state or federal statute, or a violation of or noncompliance with a
local, state, or federal rule or regulation, regardless of whether
disclosing the information is part of the employee's job duties.

1 b. An employer, or any person acting on behalf of the employer, shall
2 not retaliate against an employee for disclosing information, or
3 because the employer believes that the employee disclosed or may
4 disclose information, to a government or law enforcement agency, to
5 a person with authority over the employee or another employee who
6 has the authority to investigate, discover, or correct the violation or
7 noncompliance, or for providing information to, or testifying before,
8 any public body conducting an investigation, hearing, or inquiry, if
9 the employee has reasonable cause to believe that the information
10 discloses a violation of state or federal statute, or a violation of or
11 noncompliance with a local, state, or federal rule or regulation,
12 regardless of whether disclosing the information is part of the
13 employee's job duties.

10 c. An employer, or any person acting on behalf of the employer, shall
11 not retaliate against an employee for refusing to participate in an
12 activity that would result in a violation of state or federal statute, or
13 a violation of or noncompliance with a local, state, or federal rule or
14 regulation.

13 103. The First Amendment to the United States Constitution states in
14 relevant part: “Congress shall make no law...abridging the freedom of speech....”

15 104. 18 USC §242 states in relevant part: “Whoever, under color of any
16 law, statute, ordinance, regulation, or custom, willfully subjects any person in any
17 State, Territory, Commonwealth, Possession, or District to the deprivation of any
18 rights, privileges, or immunities secured or protected by the Constitution or laws
19 of the United States...shall be fined under this title or imprisoned not more than
20 one year, or both....”

21 105. SCCCD retaliated against Richardson for exercising his constitutional
22 rights under the First Amendment. In retaliating against Richardson for exercising
23 his constitutional rights under the First Amendment, SCCCD retaliated against
24 Richardson for refusing to participate in the abridgment or denial of his
25 constitutional rights and it further retaliated against him for refusing to participate
in a violation of federal statute, to wit 18 USC §242, in that Richards was retaliated

1 against for refusing to participate in a deprivation of his “rights, privileges, and
2 immunities secured or protected by the Constitution or laws of the United States,”
3 namely the First Amendment, by persons acting “under color of law, statute,
4 ordinance, regulation or custom.” Specifically, SCCCD attempted to chill or deter
5 Richardson’s constitutionally protected speech as set forth in this complaint. In
6 addition, Plaintiff reported such efforts to persons with “the authority to investigate,
7 discover, or correct the violation or noncompliance” of such laws, but instead of
8 protection of his rights, Richardson was subjected to materially adverse
9 employment action as set forth in this complaint.

10 106. Plaintiff exercised his constitutional right to speak under the First
11 Amendment Government Code §12940 et seq. and was thereafter retaliated against
12 when he was sanctioned with extra work consisting of forced speech where he was
13 required to submit to ideological indoctrination, threatened with further sanctions,
14 and had the negative write-up placed in his personnel file.

15 107. As a proximate result of Defendants’ retaliation, Plaintiff has been
16 caused to suffer anxiety, depression and other emotional distress in an amount to
17 be proven at trial. Plaintiff is further entitled to attorney’s fees under Labor Code
18 §1102.5.

19 **V. FOURTH CAUSE OF ACTION: VIOLATION OF CIVIL CODE §51
20 (AGAINST SCCCD.)**

21 108. Plaintiff incorporates each and every allegation contained in
22 paragraphs 1 through 107 of this complaint.

23 109. Civil Code section 51(b) states: “All persons within the jurisdiction of
24 this state are free and equal, and no matter what their sex, race, color, religion,
25 ancestry, national origin, disability, medical condition, genetic information, marital
status, sexual orientation, citizenship, primary language, or immigration status are

1 entitled to the full and equal accommodations, advantages, facilities, privileges, or
2 services in all business establishments of every kind whatsoever." The California
3 Legislature has stated that "[t]he enumerated characteristics are illustrative rather
4 than restrictive." (Cal. Civ. Code, §51, Historical Notes -- Historical and Statutory
5 Notes.) Under the Unruh Act, a business establishment may not discriminate
6 against any person based on a personal characteristic representing a trait, condition,
7 decision, or choice fundamental to a person's identity, beliefs and self-definition as
8 that factor has been applied in previous cases. *Semler v. General Electric Capital*
9 *Corp.* (2011) 196 Cal.App.4th 1380, 1395; *Koebke Bernardo Heights Country*
10 *Club* (2005) 36 Cal.4th 824, 842; *Curran v. Mount Diablo Council of the Boy*
11 *Scouts* (1998) 17 Cal. 4th 670,705.) The protection of the Unruh Act extends to
12 political affiliation. (*Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721,726
13 ["Whether the exclusionary policy rests on the alleged undesirable propensities of
14 those of a particular race, nationality, occupation, political affiliation, or age, ... the
15 Unruh Act protects individuals from . . . arbitrary discrimination."].)

16 110. SCCCD is a business establishment with respect to providing
17 secondary education in that it holds itself out as open to the public without
18 restrictions and issuing public facilities and engaging in public commerce.

19 111. Richardson was singled out for discrimination as set forth in this
20 complaint based upon his political affiliation in that he is a conservative and is
21 identified by his supervisors and the administration of SCCCD as a conservative.
22 As such, he was subjected to disparate treatment for conduct that would not have
23 resulted in the same treatment if he was not a conservative.

24 112. Civil Code section 52 provides: "[w]hoever denies, aids or incites a
25 denial, or makes any discrimination or distinction contrary to Section 51,51.5, or
26 51.6, is liable for each and every offense for the actual damages, and any amount
27 that may be determined by a jury, or a court sitting without a jury, up to a maximum

1 of three times the amount of actual damage but in no case less than four thousand
2 dollars (\$4,000), and any attorney's fees that may be determined by the court in
3 addition thereto, suffered by any person denied the rights provided in section 51,
4 51.5, or 51.6."

5 113. As a proximate result of Defendants', and each of their, conduct,
6 Richardson has suffered emotional distress, including embarrassment, humiliation,
7 anguish, stress and depression as a result of defendants' unlawful and unfair
8 treatment.

9 114. Richardson is entitled to treble the actual damages he proves at trial
10 but is entitled to no less than \$4,000 pursuant to Civil Code §52. Plaintiff is also
11 entitled to attorney's fees pursuant to Civil Code §52.

12 **VI. FIFTH CAUSE OF ACTION: VIOLATION OF CIVIL CODE §51.5**
13 **(AGAINST SCCCD.)**

14 115. Plaintiff Richardson incorporates each and every allegation contained
15 in paragraphs 1 through 114, inclusive, of this complaint.

16 116. Civil Code section 51.5(a) provides: "No business establishment of
17 any kind whatsoever shall discriminate against, boycott or blacklist, or refuse to
18 buy from, contract with, sell to, or trade with any person in this state on account of
19 any characteristic listed or defined in subdivision (b) or (e) of section 51, or of the
20 person's partners, members, stockholders, directors, officers, managers,
21 superintendents, agents, employees, business associates, suppliers, or customers,
22 because the person is perceived to have one or more of those characteristics, or
23 because the person is associated with a person who has, or is perceived to have,
24 any of those characteristics." The characteristics listed or defined by Civil Code
25 section 51.5 include "political affiliation." (*Marina Point, Ltd. v. Wolfson* (1982)
30 Cal.3d 721, 726 ("Whether the exclusionary policy rests on the alleged

1 undesirable propensities of those of a particular race, nationality, occupation,
2 political affiliation, or age... the Unruh Act protects individuals from arbitrary
3 discrimination.".)

4 117. SCCCD is a business establishment with respect to providing
5 secondary education in that it holds itself out as open to the public without
6 restrictions and issuing public facilities and engaging in public commerce.

7 118. SCCCD has discriminated against Richardson by penalizing him for
8 exercising his constitutional rights based upon his political affiliation in that he is
9 a conservative and is identified by his supervisors and the administration of
10 SCCCD as a conservative. As such, he was subjected to disparate treatment for
11 conduct that would not have resulted in the same treatment if he was not a
12 conservative.

13 119. Civil Code section 52 provides: "[w]hoever denies, aids or incites a
14 denial, or makes any discrimination or distinction contrary to Section 51,51.5, or
15 51.6, is liable for each and every offense for the actual damages, and any amount
16 that may be determined by a jury, or a court sitting without a jury, up to a maximum
17 of three times the amount of actual damage but in no case less than four thousand
18 dollars (\$4,000), and any attorney's fees that may be determined by the court in
19 addition thereto, suffered by any person denied the rights provided in section 51,
20 51.5, or 51.6."

21 120. As a proximate result of Defendants', and each of their, conduct,
22 Richardson has suffered emotional distress, including embarrassment, humiliation,
23 anguish, stress and depression as a result of defendants' unlawful and unfair
24 treatment.

25 121. Richardson is entitled to treble the actual damages he proves at trial
but is entitled to no less than \$4,000 pursuant to Civil Code §52. Plaintiff is also
entitled to attorney's fees pursuant to Civil Code §52.

1 **VII. SIXTH CAUSE OF ACTION: VIOLATION OF GOVERNMENT**
2 **CODE §12940(A)(DISCRIMINATION/AGAINST SCCCD.)**

3 122. Plaintiff Richardson incorporates each and every allegation contained
4 in paragraphs 1 through 121, inclusive, of this complaint.

5 123. Government Code Section 12940(a) states that it is an “unlawful
6 employment practice” for “an employer...because of ...race... gender, gender
7 identity, gender expression, age, sexual orientation
8 ...to discriminate against ...an employee.”

9 124. Richardson is over fifty years of age, white, and “cis-gender.” He was
10 subjected to disparate treatment because of his race, age, and gender identity than
11 people who are not white, old, and/or trans. Such disparate treatment included, as
12 alleged above, the use of preferred gender pronouns, being harassed because of the
13 use of preferred gender pronouns, being disciplined for the use of preferred gender
14 pronouns, being stigmatized because of the use of preferred gender pronouns, and
15 being subjected to sanctions for the use of preferred gender pronouns. Richardson
16 was discriminated against with respect to the use of preferred gender pronouns, due
17 process rights, and being free from arbitrary and capricious punishments because
18 it was presumed that since he was an older, white, cis male that he must have been
19 engaged in dangerous and mocking behavior against a fellow instructor.
20 Richardson is informed and believes and thereon alleges that the substantial
21 motivation for this treatment was because of his disability.

22 125. As a proximate result of this violation of the FEHA, Richardson
23 suffered emotional distress from the harassment, including pain, suffering, anxiety,
24 embarrassment, fear, depression and other forms of emotional distress, in an
25 amount which will be proven at trial. In addition, Plaintiff was forced to spend his
time without compensation undergoing indoctrination into the anti-free speech
ideology that SCCCD is promoting to his pecuniary damage and emotional distress.

1 Plaintiff is entitled to recover the attorney’s fees and costs he incurs in this action
2 pursuant to the FEHA.

3 **VIII. SEVENTH CAUSE OF ACTION: VIOLATION OF**
4 **GOVERNMENT CODE §12940(J)(HARASSMENT/AGAINST**
5 **SCCCD.)**

6 126. Plaintiff Richardson incorporates each and every allegation contained
7 in paragraphs 1 through 125, inclusive, of this complaint.

8 127. Government Code Section 12940(j)(1) states that it is an “unlawful
9 employment practice” for “an employer...because of ...disability ...to harass an
10 employee.” Government Code Section 12940(j)1) further provides that
11 “Harassment of an employee...by an employee, other than an agent or supervisor,
12 shall be unlawful if the entity, or its agents or supervisors, knows or should have
13 known of this conduct and fails to take immediate and appropriate corrective
14 action.”

15 128. Richardson is over fifty years of age, white, and “cis-gender.” He was
16 subjected to disparate treatment because of his race, age, and gender identity than
17 people who are not white, old, and/or trans. Such disparate treatment included, as
18 alleged above, the use of preferred gender pronouns, being harassed because of the
19 use of preferred gender pronouns, being disciplined for the use of preferred gender
20 pronouns, being stigmatized because of the use of preferred gender pronouns, and
21 being subjected to sanctions for the use of preferred gender pronouns. Richardson
22 was discriminated against with respect to the use of preferred gender pronouns, due
23 process rights, and being free from arbitrary and capricious punishments because
24 it was presumed that since he was an older, white, cis male that he must have been
25 engaged in dangerous and mocking behavior against a fellow instructor. Richardson is informed and believes and thereon alleges that the substantial motivation for this treatment was because of his disability. In addition, Defendant

1 SCCCD has made the workplace a hostile environment for Richardson by its
2 frequent derogatory comments about “older white men,” its instructions that “older
3 white men” should remain silent, and its disciplinary material that depict “older
4 white men” as the invariable offenders against other employees. SCCCD has also
5 assigned reading from Ibrahim X. Kendi and others which is racist and derogatory
6 concerning older white males in teaching that “whiteness,” and people in whom
7 “whiteness” subsists, such as older white males, are racist and have an affirmative
8 obligation not shared by members of other races/genders to affirmatively prove that
9 they are “anti-racist.” Thus, “older white men” are presumed guilty with scant hope
10 of a presumption of innocence.

11 129. As a proximate result of this violation of the FEHA, Richardson
12 suffered emotional distress from the harassment, including pain, suffering, anxiety,
13 embarrassment, fear, depression and other forms of emotional distress, in an
14 amount which will be proven at trial. In addition, Plaintiff was forced to spend his
15 time without compensation undergoing indoctrination into the anti-free speech
16 ideology that SCCCD is promoting to his pecuniary damage and emotional distress.
17 Plaintiff is entitled to recover the attorney’s fees and costs he incurs in this action
18 pursuant to the FEHA.

19 **IX. EIGHTH CAUSE OF ACTION: VIOLATION OF GOVERNMENT**
20 **CODE §12940(K)(FAILURE TO PROVIDE A WORKPLACE THAT**
21 **IS FREE OF DISCRIMINATION, RETALIATION AND/OR**
22 **HARASSMENT/AGAINST SCCCD.)**

23 130. Plaintiff Richardson incorporates each and every allegation contained
24 in paragraphs 1 through 125, inclusive, of this complaint.

25 131. Under Government Code section 12940 (k), it is an unlawful
employment practice for any employer to fail to provide a workplace that is free of
discrimination, retaliation and/or harassment.

1 132. Richardson is over fifty years of age, white, and “cis-gender.” He was
2 subjected to disparate treatment because of his race, age, and gender identity than
3 people who are not white, old, and/or trans. Such disparate treatment included, as
4 alleged above, the use of preferred gender pronouns, being harassed because of the
5 use of preferred gender pronouns, being disciplined for the use of preferred gender
6 pronouns, being stigmatized because of the use of preferred gender pronouns, and
7 being subjected to sanctions for the use of preferred gender pronouns. Richardson
8 was discriminated against with respect to the use of preferred gender pronouns, due
9 process rights, and being free from arbitrary and capricious punishments because
10 it was presumed that since he was an older, white, cis male that he must have been
11 engaged in dangerous and mocking behavior against a fellow instructor.
12 Richardson is informed and believes and thereon alleges that the substantial
13 motivation for this treatment was because of his disability. In addition, Defendant
14 SCCCD has made the workplace a hostile environment for Richardson by its
15 frequent derogatory comments about “older white men,” its instructions that “older
16 white men” should remain silent, and its disciplinary material that depict “older
white men” as the invariable offenders against other employees.

17 As a proximate result of this violation of the FEHA, Richardson suffered emotional
18 distress from the harassment, including pain, suffering, anxiety, embarrassment,
19 fear, depression and other forms of emotional distress, in an amount which will be
20 proven at trial. In addition, Plaintiff was forced to spend his time without
21 compensation undergoing indoctrination into the anti-free speech ideology that
22 SCCCD is promoting to his pecuniary damage and emotional distress. Plaintiff is
23 entitled to recover the attorney’s fees and costs he incurs in this action pursuant to
the FEHA.

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Wherefore, Plaintiffs pray judgment as follows:

1. For Declaratory Judgment that AR 34235 is unconstitutional on its face and/or as applied in this case because it violates the First and Fourteenth Amendments to the United States Constitution.
2. For Declaratory Judgment that SCCCD's PGP policy is on its face and/or as applied in this case unconstitutional because it violates the First and Fourteenth Amendments to the United States Constitution.
3. For Declaratory Judgment that SCCCD's Discrimination-Harassment policy is unconstitutional on its face and/or as applied in this case because it violates the First and Fourteenth Amendments to the United States Constitution.
4. For Declaratory Judgment that the discipline imposed by SCCCD on Richardson was unconstitutional as applied in this case because it violates the First and Fourteenth Amendments to the United States Constitution.
5. For Injunctive Relief prohibiting SCCCD from enforcing the policies that violated the First and Fourteenth Amendments to the United States Constitution as alleged herein.
6. For compensatory damages according to proof.
7. For attorney's fees as pled.
8. For costs of suit herein incurred; and
9. For such other and further relief as the court deems proper.

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Dated: September 5, 2022.

Peter Sean Bradley, Esq.

Peter Sean Bradley
By _____
Peter Sean Bradley
Attorney for Plaintiffs

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Michael Stannard, David Richardson

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Peter Bradley; 1111 E. Herndon Ave. Ste 204 Fresno, CA 93720; (559) 960-5613;

DEFENDANTS

See attachment

County of Residence of First Listed Defendant Fresno

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

DeMaria Law Firm, A.P.C., Anthony N. DeMaria, Esq. (559) 206-2410; 1684 W. Shaw Ave. Ste 101 Fresno, CA 93711

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and codes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1367; 28 U.S.C. 1441; 28 U.S.C. 1446

Brief description of cause: Plaintiffs assert violations of the First and Fourteenth Amendments

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

September 28, 2022

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

DEMARIA LAW FIRM, APC. 1
Anthony N. DeMaria
ademaria@demarialawfirm.com 2

Attachment

3 Name of Defendants:

FRESNO, CA OFFICE
1684 W. Shaw Ave., Ste. 101
Fresno, California 93711
Telephone (559) 206-2410
Fax (559) 570-0126

4 State Center Community College District; State Center Community College District's Chancellor,
5 Carole Goldsmith, Ed.D., in her official capacity; State Center Community College District's Vice-
6 Chancellor, Human Resources, Juliana D. Mosier, in her official capacity and DOES 1 through 20,
7 inclusive.

DENVER, CO OFFICE
999 18th Street, Suite 3000
Denver, Colorado 80202
Telephone (559) 206-2410
Fax (559) 570-0126

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