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9 JOSHUA DENHALTER

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF RIVERSIDE**

13 JOSHUA DENHALTER,)

14 Plaintiff,)

15 vs.)

16 JURUPA UNIFIED SCHOOL)
17 DISTRICT, VERA MAHONEY,)
18 in her personal and official)
19 capacities, and DOES 1)
20 through 25, Inclusive,)

21 Defendants.)
22 _____)

CASE NO. _____

**COMPLAINT FOR DAMAGES
& EQUITABLE RELIEF**

23 **Plaintiff, JOSHUA DENHALTER, hereby alleges as follows:**

- 24 1. This action arises out of injuries and damages sustained within this jurisdiction. Plaintiff
25 was and is a student of the Jurupa Unified School District and resides within this
26 jurisdiction.
27 2. Defendant JURUPA UNIFIED SCHOOL DISTRICT (JUSD) is a school district
28 operating within this jurisdiction and is a public entity/state actor. JUSD operates Jurupa
Valley High School.
3. Defendant VERA MAHONEY is alleged to be an agent of JUSD who conducts her
regular professional affairs within this jurisdiction. Said defendant is also a “person”
within the meaning of any applicable civil rights statutes mentioned below. She is the

1 person directly responsible for enforcing the JUSD disciplinary rules of Jurupa Valley
2 High School.

3 4. Defendant VERA MAHONEY is sued in her personal capacity because she is the
4 person who directly caused the alleged harms in this case.

5 5. JUSD provided MAHONEY with practices, policies and procedures that allowed for her
6 to violate the rights of the Plaintiff.

7 6. When MAHONEY violated the rights of Plaintiff, as described below, she was acting
8 well outside the scope of any lawful authority conferred on her by law and acted with
9 actual or constructive knowledge of the rights of the Plaintiff and consciously
10 disregarded the same.

11 7. Plaintiff is unaware of the true names and capacities of DOES 1 through 25. Once the
12 names and capacities of these defendants, who are in some manner responsible for the
13 harms alleged herein, Plaintiff will amend this complaint accordingly.

14 **GENERAL STATEMENT OF FACTS**

15 **APPLICABLE TO ALL CAUSES OF ACTION**

16 8. Plaintiff incorporates Paragraphs 1 through 7 as though fully set forth herein.

17 9. Plaintiff was a student at Jurupa Valley High School during the week of March 27, 2006.

18 10. On or about March 27, 2006, dozens of students, mostly of Mexican-American descent,
19 intentionally and illegally walked out of school in protest of certain legislation (HR4437)
20 that was being proposed by the United States Congress concerning illegal immigration.
21 Plaintiff was not one of these students. He chose to act lawfully and to express views
22 contrary to those that support violations of existing immigration laws. His chosen
23 methods of communication have and continue to include written expression, rallying,
24 and formal academic presentations. As shown below, each of these protected activities
25 have been thwarted by the Defendants.

26 11. Instead of illegally walking out of school and being truant, Plaintiff chose to organize a
27 legitimate and lawful protest/assembly during the lunch hour on or about March 30,
28 2006. The peaceable assembly was to take place across from the school on a public

1 sidewalk (i.e., a traditional public forum).

2 12. The peaceable assembly would not have interfered with or unreasonably disrupted
3 ordinary school activities because Jurupa Valley High School has an “open lunch” period.
4 This means that students are free to come and go during this time. As such, any student
5 could have “walked out” during the lunch to attend the assembly and there would be no
6 disruption or violation of truancy laws.

7 13. On the morning of March 30, 2006, Plaintiff began handing out flyers for his event.

8 14. That same morning, around 7:30 AM, he was approached by someone acting on behalf
9 of MAHONEY and told that he could not hand out flyers advertising the First
10 Amendment protected activities that were to take place during lunch.

11 15. Plaintiff appropriately refused to give up his right to pass out handbills/flyers.

12 16. As a result of his refusal to give up his constitutional rights, Plaintiff was suspended for
13 “handing out flyers (before school) advocating the disruption of school activities”.
14 Plaintiff specifically told the MAHONEY agent that he was not disrupting any school
15 activities and his pleas for the lawful exercise of his First Amendment rights were ignored
16 and trampled upon. No foreseeable disruption of any activity was evidenced by any of
17 Plaintiff’s actions. Moreover, Defendants apparently did not see truancy and walk-outs
18 as any significant disruption in the days before regardless of the fact that Plaintiff’s
19 activities are far less onerous, if at all onerous, than the activities of the students who
20 walked out of school.

21 17. Defendants did not have any valid authority to stop Plaintiff’s activities on or about
22 March 30, 2006.

23 18. Defendants did not punish, in any meaningful sense, the dozens of students who walked
24 out in violation of the law several days before. Defendants intentionally treated Plaintiff
25 differently and unequally because they apparently did not like his viewpoints on
26 immigration. Defendants unfairly and prejudicially punished Plaintiff because they do
27 not support his viewpoints.

28 19. Plaintiff’s activities posed absolutely no threat to school activities or anyone’s rights on,

1 before, or after March 30, 2006. Defendant’s oppressive conduct was politically
2 motivated and partially fueled by a desire to avoid political controversy regardless of the
3 fact that they openly supported the “walk-out” students and a pro-illegal immigrant
4 group commonly known as Jurupa Valley High School’s MECHA club.

5 20. When Plaintiff was given a “Preliminary Notice of Suspension,” it did not have attached
6 a copy of his appellate rights and he reasonably assumed that the suspension could not
7 be challenged. This failure to advise him of his rights violated his interest in Due Process
8 of law.

9 21. The suspension of Mr. Denhalter has irreparably damaged his academic credentials and
10 ability to fairly apply to college. Mr. Denhalter intends on serving as an officer for the
11 California Highway Patrol when he is able. The actions of the Defendants have
12 unreasonably interfered with his ability to pursue these professional goals and dreams.

13 22. As a result of the aforementioned activities of the Defendants, Plaintiff was caused to
14 suffer shame, humiliation, defamation, false light of his character, violations of due
15 process, chilling of his First Amendment rights, and other civil rights violations.

16 23. The acts of the Defendants were intentional and designed to silence Plaintiff on the issue
17 of illegal immigration. There was no risk that Plaintiff was going to disrupt the school’s
18 activities by his distribution of flyers or participation in a peaceful rally supporting
19 enforcement of existing immigration laws.

20 24. Between March 27 and March 30, 2006, Defendants allowed MECHA to sponsor an on-
21 campus rally in opposition to HR4437. Denhalter asked for permission to sponsor a
22 similar rally on campus but was denied by the JUSD school board.

23 25. Finally, just the week before filing of this complaint, on or about May 25, 2006,
24 Defendants, and their “authorized” representatives, prohibited Plaintiff from wearing a
25 “Save Our State” t-shirt by telling him that he needed to turn the shirt inside out and not
26 ever where it again. The content of the political speech set forth on the shirt was the sole
27 basis for this censorship and prior restraint of Plaintiff’s rights. Plaintiff seeks a TRO
28 allowing him to express himself freely as to political matters until the end of the school

1 year (i.e., June 21, 2006).

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3 **FIRST CAUSE OF ACTION**
4 **VIOLATION OF FREE SPEECH RIGHTS**

5 (As Against All Defendants)

6 26. Plaintiff hereby realleges Paragraphs 1 through 25 as though fully set forth herein.

7 27. The acts of the Defendants, as alleged above, unreasonably and knowingly interfered
8 with the First Amendment rights of Plaintiff. Moreover, these acts continue to have a
9 chilling effect on the free speech rights of the Plaintiff and are causing him continuing
10 injury and damages.

11 28. Defendant JUSD had established procedures, rules, or written standards that apparently
12 promulgated violations of First Amendment rights. JUSD relied on such policies in
13 justifying their illegal activities with respect to Plaintiff. Such regulations are in violation
14 of the United States and California constitutions and should be struck down as being
15 unlawful prior restraints on protected speech.

16 29. By allowing MECHA and dozens of other students to walk off campus and to sponsor
17 a rally on campus, a public forum for the discussion of immigration was created by
18 Defendants. However, Plaintiff was denied access to this forum and prevented from
19 exercising his rights to participate in the political discussion on such topics. Defendants
20 acts are a prior restraint on Plaintiff's protected speech and no alternative means of
21 communication have been afforded to him as required by law.

22 30. The act of suspending Plaintiff had a chilling effect on his free speech rights and were
23 a substantial factor in causing the past and continuing harms alleged herein. The present
24 harms being suffered are irreparable and continuing such that injunctive relief is
25 necessary.

26 31. Defendants' actions deprive Plaintiff and members of the public of the right to free
27 speech as guaranteed by Article I section 2 of the California Constitution and the First
28 Amendment to the United States Constitution.

1 32. Plaintiff is entitled to damages, attorneys fees, and equitable relief by virtue of 42 U.S.C.
2 §§ 1983, 1988.

3 33. Defendants had and have no compelling state interest in limiting the speech of Plaintiff.

4 34. The actions of the Defendants were intentionally directed at the content or anticipated
5 content of Plaintiff's speech.

6 35. Defendants made and continue to make no attempt to accommodate or provide
7 alternative or less restrictive channels of communication for Plaintiff.

8 36. The actions of the Defendants were and are not the least restrictive means to address the
9 perceived problems associated with Defendants misconceived fears about Plaintiff's
10 speech.

11 37. Notice of a governmental tort claim is not necessary in this case because this action
12 relates to the enforcement of federal rights that preempt any tort claims procedure
13 implemented by the State of California.

14 **SECOND CAUSE OF ACTION**
15 **FOR VIOLATIONS OF DUE PROCESS**

16 (As Against All Defendants)

17 38. Plaintiff hereby realleges Paragraphs 1 through 37 as though fully set forth and alleged
18 herein.

19 39. Defendants failed to advise Plaintiff of his appellate rights after providing him with a
20 preliminary notice of suspension on March 30, 2006.

21 40. Plaintiff was not given any reasonable means of review following the service of the notice
22 of suspension. Additionally, when Plaintiff returned to school, he was forced to sign
23 forms that suggested an admission of fault in the exercise of his First Amendment rights.
24 Defendants knew that he was represented by counsel herein and approached him without
25 advice of counsel anyway. Defendants knowingly deprived Plaintiff of the right to
26 counsel in the suspension process.

27 41. California and federal law require a review process where a student is about to be
28 deprived of academic rights. Furthermore, Plaintiff had a right to counsel at all critical

1 stages of any suspension proceedings.

2 42. There was no threat posed by Plaintiff that could have justified a suspension or failure
3 to provide immediate rights of review and appeal so that the suspension could be stayed,
4 suspended, or reversed.

5 43. No notice of appellate rights was afforded to Plaintiff until it was too late to appeal.

6 44. Plaintiff seeks any and all equitable or declaratory relief sufficient to restore his academic
7 standing prior to the preliminary notice of suspension. Specifically, he wants all negative
8 references in his academic file removed forthwith.

9 45. Plaintiff has been damaged as a result of the violation of due process as alleged herein.

10 46. Immediate relief is necessary as Plaintiff intends on immediately seeking academic and
11 professional positions which will require disclosure of his academic records. Without
12 redaction of the negative references illegally created by the suspension records, Plaintiff
13 will suffer lost opportunities and property rights.

14 **PRAYER**

15 ***WHEREFOR Plaintiff prays for relief as follows:***

16 A. For general and special damages in an amount to be proven at trial, but not less than
17 \$25,000.00;

18 B. For attorneys fees per California and United States law;

19 C. For costs of suit;

20 D. For an injunction prohibiting further enforcement or reference to any suspension of
21 Plaintiff or other limitations of his First Amendment rights;

22 E. For declaratory relief as to the rights and obligations of the parties with respect to any
23 alleged policy that was enforced against Plaintiff during the suspension process;

24 F. For declaratory relief finding the actions of the Defendants to be unconstitutional; and,

25 G. For punitive damages as against the Defendants, and each of them.

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DATED : June 1, 2006

Respectfully submitted:
LIVELY, ACKERMAN & COWLES

RICHARD D. ACKERMAN, ESQ.,
Attorneys for Plaintiff,
JOSHUA DENHALTER.