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11 *Attorneys for Plaintiffs Steven Madrid and M.G., through her mother and guardian ad litem*  
 12 *Darylin Reeder*

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 14 FOR THE COUNTY OF MADERA

**MCV080168**

Case No.

15 Steven Madrid and M.G., a minor, by  
 16 DARYLIN REEDER, her guardian ad litem,

Plaintiffs,

v.

17 Chawanakee Unified School District; Daniel  
 18 Ching in his official and individual capacity as  
 19 Principal of Minarets High School; and  
 20 Juan Ortiz, in his official and individual  
 21 capacity as Yearbook Advisor of Minarets High  
 22 School

Defendants.

**VERIFIED COMPLAINT FOR  
 DECLARATORY AND INJUNCTIVE  
 RELIEF AND STATUTORY DAMAGES**

Filed By  
Filed By Fax

1 Plaintiffs STEVEN MADRID and M.G., through her mother and guardian ad litem  
2 Darylin Reeder (“Plaintiffs”), by and through the undersigned counsel at the American Civil  
3 Liberties Union Foundation of Northern California, sue Defendants Chawanakee Unified  
4 School District, Daniel Ching in his official and individual capacity as Principal of Minarets  
5 High School, and Juan Ortiz, in his official and individual capacity as Yearbook Advisor of  
6 Minarets High School (“Defendants”), and allege as follows:

7 **A. INTRODUCTION**

8 1. Like other Seniors at Minarets High School, Plaintiffs Steven Madrid (“Steven”)  
9 and M.G. submitted quotes this past fall to appear on their personalized sections in the school  
10 yearbook. The submitted quotes read as follows:

11 Steven’s quote: “I think that the best day will be when we no longer talk about being gay  
12 or straight -- it’s not a ‘gay wedding,’ it’s just a ‘wedding’. It’s not a ‘gay marriage,’ it’s  
13 just ‘a marriage.’ - Pink.”

14 M.G.’s quote: “If Harry Potter has taught us anything, it’s that no one deserves to live in  
15 a closet. What they don’t know can’t hurt them.”

16 2. For Steven and M.G., the quotes are both a representation of their LGBTQ-  
17 identity (Lesbian, Gay, Bisexual, Transgender or Questioning), as well as a statement  
18 advocating for equality for LGBTQ people. Although the quotes in question—one about  
19 marriage equality for same-sex couples and one about not being required to be in “closet”—are  
20 generic statements in support of LGBTQ people, they were nonetheless removed from the  
21 yearbook by Defendants.

22 3. Having heard rumors about their quotes being removed from the yearbook, Steven  
23 and M.G. sent an email to both the Minarets High School Yearbook Advisor Mr. Ortiz and the  
24 Minarets High School Principal Mr. Ching seeking an explanation of the removal in writing.  
25 Plaintiffs stated that they believed that removing their quotes was discriminatory, and they  
26 attached an open letter the ACLU posts on its national website explaining that anti-LGBT  
27 censorship by public schools violates students’ constitutional free speech rights. The letter  
28

1 states in relevant part: There is nothing lewd, violent, or disruptive about a student peacefully  
2 displaying his or her support for fairness and equality for LGBT people. . . . To comply with the  
3 law, you must ensure that your policy permits students to express their support for the respect,  
4 equal treatment, and acceptance of LGBT people . . . .”

5 4. Defendants ignored Steven’s and M.G.’s legal demand. Instead, Mr. Ortiz sent  
6 Steven and M.G. an email explaining that their quotes were removed as “politically divisive.”  
7 He further stated that “[s]exuality can be a divisive topic in school as well as the community.”

8 5. Defendants’ censorship of Steven and M.G.’s speech celebrating their LGBTQ  
9 identities and making a statement about equality for LGBTQ people violates numerous  
10 provisions of the California Education Code; the non-discrimination provisions of California’s  
11 Unruh Act; and Plaintiffs’ free speech rights under both the U.S. and California Constitutions.  
12 Indeed, it is shocking in California in 2019 that Defendants do not recognize the plain illegality  
13 of this kind of censorship. Plaintiffs therefore seek declaratory and injunctive relief and  
14 statutory damages.

15 **B. JURISDICTION AND VENUE**

16 6. This Court has jurisdiction under article VI, section 10, of the California  
17 Constitution and California Code of Civil Procedure § 410.10.

18 7. Venue in this Court is proper because the action arose in Madera County and  
19 Defendants are situated in this County. *Id.* at §§ 393(b), 394(a).

20 **C. PARTIES**

21 8. Steven Madrid resides in Madera County, California and is an 18-year-old senior  
22 at Minarets High School. Steven identifies as gay, and, as part of the school’s Genders and  
23 Sexualities Alliance (“GSA”) also works to support other LGBTQ students in the school and  
24 advocate for LGBTQ equality.

25 9. M.G. resides in Madera County, California and is a 17-year-old senior at Minarets  
26 High School. M.G. identifies as part of the LGBTQ community, and as President and founder  
27  
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1 of the GSA, had worked continuously to advocate on behalf of individual LGBTQ students at  
2 the school, as well as LGBTQ equality generally.

3 10. Darylin Reeder is M.G.'s mother and, by petition to this Court, has requested  
4 appointment to be her guardian ad litem concurrent with the filing of this Complaint.

5 11. Defendant Chawanakee Unified School District is and was at all relevant times a  
6 public entity and public school district established by the State of California and located in  
7 Madera County, California, with control over Minarets High School and its policies, including  
8 the policy here at issue. The District is an administrative body with oversight responsibility for  
9 all schools and school employees in the District and is directly responsible for approving and  
10 encouraging the policy, practices, and actions of which Plaintiff complains.

11 12. Defendant Daniel Ching is and was at all relevant times the Principal of Minarets  
12 High School and, as such, is directly responsible for implementing the policy, practices, and  
13 actions of which Plaintiffs complain. He is sued in both his official and individual capacities.

14 13. Defendant Juan Ortiz is and was at all relevant times the Yearbook Advisor of  
15 Minarets High School and, as such, is directly responsible for implementing the policy,  
16 practices, and actions of which Plaintiffs complain. He is sued in both his official and individual  
17 capacities.

18 **D. FACTS**

19 14. Each year, Minarets High School seniors are asked to submit four pictures (three  
20 current pictures and a baby picture) and an accompanying quote for their personalized senior  
21 sections of the high school yearbook. Students are told that the quotes should be 2-3 sentences.  
22 The quotes are submitted by google form to the Yearbook Advisor, Defendant Ortiz.

23 15. Excited to participate in this lifetime high school memory, the week of December  
24 21, 2018, Steven Madrid and M.G. submitted quotes for their senior yearbook sections at  
25 Minarets High School. Both Steven and M.G. submitted quotes shorter than three sentences.  
26 They each also submitted three current pictures of themselves and baby pictures.

1           16. Steven is openly gay and wanted to submit a quote to the yearbook that was about  
2 his sexual orientation. Since he was in the sixth grade, he has strongly believed that that  
3 marriage from same-sex couples should not be treated differently. He was excited that he would  
4 finally be able to express his beliefs regarding marriage equality and his sexual orientation  
5 through his yearbook quote.

6           17. Steven submitted the following quote by email during the week of December 21,  
7 2018, for his personal senior yearbook section: “I think that the best day will be when we no  
8 longer talk about being gay or straight -- it’s not a ‘gay wedding,’ it’s just a ‘wedding’. It’s not  
9 a ‘gay marriage,’ it’s just ‘a marriage.’ - Pink.”

10           18. M.G. identifies as a member of the LGBTQ community and is founder and  
11 President of the GSA club at Minarets High School. M.G. grew up watching Harry Potter, and a  
12 big part of the Harry Potter story is that, as child, Harry was forced to hide his wizardry and was  
13 shamed by family members who did not understand him. Harry was also forced to live in an  
14 actual closet. But as a young adult, Harry can embrace his wizard identity and becomes a great  
15 wizard.

16           19. M.G. submitted the following quote by email during the week of December 21,  
17 2018 for her personal senior yearbook section: “If Harry Potter has taught us anything, it’s that  
18 no one deserves to live in a closet. What they don’t know can’t hurt them.” To M.G., this quote  
19 is about how Harry Potter helped her understand that being open about true identities makes a  
20 world of difference to LGBTQ youth.

21           20. From December through the second week of January 2019, both Steven and M.G.  
22 believed that the quotes they had selected and submitted would be published in their personal  
23 senior sections of the yearbook. No school staff or administrator alerted them that their quotes  
24 were at risk of being removed from the yearbook.

25           21. On or around January 9, 2019, Steven and M.G. began to hear rumors from  
26 friends at Minarets High School who were involved with the yearbook that Steven and M.G.’s  
27 quotes had been removed from the yearbook. Steven and M.G. then orally asked Defendant  
28

1 Ortiz whether their quotes had been removed, but he was initially evasive about what had  
2 happened to the quotes.

3 22. In the morning of January 14, 2019, M.G. sent an email to Defendants Ching and  
4 Ortiz, along with Patrick Wilson, the Minarets High School Director of Charter, cc'ing Steven.  
5 The email (attached here in full as Exhibit A) asked why M.G.'s and Steven's quotes had been  
6 "flagged," and stated: "As far as I am concerned, Steven and I are causing no harm by  
7 peacefully voicing our acceptance of us being part of the LGBTQ Community. Evidence has  
8 shown our schools are unsafe spaces for LGBTQ students. As the administration team, it is your  
9 responsibility to work towards ensuring a safe, encouraging environment for ALL students."

10 23. The email then went on to state that: "The actions that have been presented about  
11 our quotes being in violation somehow causes the assumption that someone in faculty or student  
12 body is personally offended by us. There is no excuse for discriminating against students based  
13 on personal views. It is violating our first amendment rights as human beings as well.  
14 Underneath is a document collaborated by ACLU with examples of what has happened to  
15 schools who have tried to discriminate against LGBTQ Students."

16 24. M.G. attached to her January 14, 2019 email an "open letter" from the ACLU's  
17 LGBT & HIV Project that generally outlines cases in which school districts have been found to  
18 violate the First Amendment for engaging in anti-LGBT censorship (a full copy of the letter is  
19 attached here as Exhibit B). The letter states in relevant part: "There is nothing lewd, violent, or  
20 disruptive about a student peacefully displaying their support for fairness and equality for  
21 LGBT people." And the letter concludes: "To comply with the law, you must ensure that your  
22 policy permits students to express their support for the respect, equal treatment, and acceptance  
23 of LGBT people regardless of the conflicting personal views of faculty, staff, students, or  
24 parents."

25 25. In the evening of January 14, 2019, Defendant Ortiz sent both Steven and M.G. an  
26 email, cc'ing Defendant Ching, that stated definitively that their yearbook quotes had been  
27 removed and explaining the rationale behind the removal (the email is attached in full here as  
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1 Exhibit C). Mr. Ortiz first listed the reasons for a yearbook quote to be removed: (1) negative  
2 comments about any person or group of people; (2) foul language; (3) drug/alcohol/substance  
3 abuse references; (4) negative comments/attitude towards life/school in general; and (5)  
4 politically divisive quotes or sayings. Defendant Ortiz then went on to state as follows: “I feel  
5 that your quotes both fell under number 5. Sexuality can be a divisive topic in school as well as  
6 the community. I feel that putting a quote like this would only cause unnecessary issues.”

7 26. Steven and M.G. reviewed previous yearbooks and found several included quotes  
8 that related to either a celebration of a student’s identity, for example, Christian students and a  
9 student that identified as a supporter of President Trump. They also found included quotes that  
10 were similar in nature to their quotes in terms of stating beliefs, like that it’s ok to be different.  
11 Images of these other quotes are attached here as Exhibit D.

12 27. The District had no articulated standard or policy controlling the content or  
13 viewpoint of the messages that were sent by students for their yearbook pages prior to Steven  
14 and M.G. submitting their quotes. The google form stated that submitted quotes would be  
15 removed if they were found to be “inappropriate,” but it did not explain what that meant. Other  
16 than that, the only guidance the form provided was to specify the length of the quote as 2-3  
17 sentences. The January 14, 2019 email to Plaintiffs from Defendant Ortiz was the first time  
18 Plaintiffs had heard that quotes could be removed from the yearbook for being “politically  
19 divisive.” Other than stating the term “politically divisive,” Defendant Ortiz did not give any  
20 additional guidance as to what that term meant in the context of removing Plaintiffs’ yearbook  
21 quotes.

22 28. Steven and M.G. desired and continue to desire to express their beliefs and  
23 viewpoints about their LGBTQ identities and about equal rights for LGBTQ people. But for  
24 Defendants’ unlawful censorship, Steven and M.G. would have personalized senior yearbook  
25 sections that reflect how they want to be remembered as students for years after they graduate.  
26 Furthermore, because of Defendants’ censorship, Plaintiffs do not currently have quotes in the  
27 yearbook.

1 29. Unless enjoined by this Court, Plaintiffs will continue to be subject to punishment  
2 for their lawful exercise of their First Amendment and state constitutional rights, and their  
3 rights under the California Education Code and the Unruh Act to express their views regarding  
4 their LGBTQ identities and equality for LGBTQ people. Plaintiffs have been and will continue  
5 to be irreparably harmed by the Defendants' denial of their fundamental constitutional rights.

6 **FIRST CAUSE OF ACTION**

7 Violation of First Amendment, as applied to the states under the Fourteenth Amendment  
8 (Against All Defendants 42 U.S.C. § 1983)

9 30. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in  
10 this Complaint.

11 31. Defendants deprived, and are continuing to deprive, Plaintiffs of the rights  
12 secured to them by the United States Constitution.

13 32. By removing Steven and M.G.'s quotes from the yearbook that express views on  
14 their LGBTQ identities and equality for LGBTQ people, Defendants violated, and are  
15 continuing to violate, Plaintiffs' right to free speech and expression, and in particular their right  
16 to political expression, as guaranteed by the First Amendment and the Fourteenth Amendment  
17 to the U.S. Constitution.

18 33. Defendants' actions are, in whole or in part, unlawfully motivated by their  
19 disagreement with the Plaintiffs' viewpoint concerning LGBTQ identity and equality for  
20 LGBTQ people, and therefore their actions also constitute unlawful viewpoint discrimination.

21 34. In depriving Plaintiffs of these rights, Defendants acted under color of state law.

22 **SECOND CAUSE OF ACTION**

23 (Violation of California Constitution, Article I § 2(a))

24 35. Plaintiffs re-allege and incorporate by reference the allegations of the above  
25 paragraphs as though fully set forth herein.

26 36. Under Article I § 2(a) of the California Constitution, "Every person may freely  
27 speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of  
28 this right. A law may not restrain or abridge liberty of speech or press."



1 37. Steven and M.G. wish to include quotes on their personalized senior yearbook  
2 sections that express views on their LGBTQ identities and equality for LGBTQ people. This  
3 expressive conduct is fully protected by this provision.

4 38. Defendants' removal of Plaintiffs' LGBTQ-inclusive quotes from the yearbook  
5 therefore violates Article I § 2(a) of the California Constitution.

6 **THIRD CAUSE OF ACTION**

7 Violation of Civil Code Section 52(a), Unruh Civil Rights Act; 52.1(b)  
8 (Against All Defendants)

9 39. Plaintiffs re-allege and incorporate by reference all of the preceding paragraphs in  
10 this Complaint.

11 40. Defendants are engaged in the business of operating schools that are a business  
12 and public accommodations as defined by Civil Code Section 51.

13 41. Plaintiffs' yearbook quotes expressed their LGBTQ identities and support of  
14 equality for LGBTQ people and they were removed by Defendants from the yearbook on this  
15 basis. Given that Defendants permit yearbook quotes that celebrate other identities and beliefs,  
16 such removal constitutes discrimination on the basis of sexual orientation, gender identity,  
17 and/or gender expression.

18 42. Defendants' removal of Plaintiffs' LGBTQ-inclusive quotes from the yearbook  
19 therefore denied Plaintiffs the full and equal accommodations, advantages, facilities, privileges,  
20 and services in a business and accommodation in violation of Civil Code Sections 51 and 52(a).

21 **FOURTH CAUSE OF ACTION**

22 (Violation of California Education Code § 48907)

23 43. Plaintiffs incorporate by reference the allegations of the above paragraphs as  
24 though fully set forth herein.

25 44. Under Education Code § 48907(a) (emphasis added), public school students  
26 "shall have the right to exercise freedom of speech and of the press *including, but not limited to,*  
27 the use of bulletin boards, the distribution of printed materials or petitions, the wearing of  
28 buttons, badges, and other insignia, and *the right of expression in official publications,* whether

1 or not the publications *or other means of expression* are supported financially by the school or  
2 by use of school facilities, except that expression shall be prohibited which is obscene, libelous,  
3 or slanderous. Also prohibited shall be material that so incites pupils as to create a clear and  
4 present danger of the commission of unlawful acts on school premises or the violation of lawful  
5 school regulations, or the substantial disruption of the orderly operation of the school.”

6 45. Defendant Ortiz told Plaintiffs that their submitted yearbook quotes were removed  
7 because Defendants had deemed them “politically divisive” because they were about  
8 “sexuality.” Steven’s and M.G.’s quotes were not removed because they were obscene, libelous,  
9 or slanderous; because they would incite students to commit unlawful acts on school premises  
10 or the violation of lawful school regulations; or because they would cause the substantial  
11 disruption of the orderly operation of the school.

12 46. Steven’s and M.G.’s quotes expressing their LGBTQ identities and support of  
13 equality for LGBTQ people are not obscene, libelous, or slanderous; would not incite students  
14 to commit unlawful acts on school premises or the violation of lawful school regulations; and  
15 would not cause the substantial disruption of the orderly operation of the school.

16 47. Defendants’ removal of Plaintiffs LGBTQ-inclusive quotes from the yearbook  
17 therefore violates Education Code § 48907.

18 **FIFTH CAUSE OF ACTION**  
19 (Violation of California Education Code §§ 200 et seq.)

20 48. Plaintiffs incorporate by reference the allegations of the above paragraphs as  
21 though fully set forth herein.

22 49. Plaintiffs’ yearbook quotes expressed their LGBTQ identities and support of  
23 equality for LGBTQ people and they were removed by Defendants from the yearbook on this  
24 basis. Given that Defendants permit yearbook quotes that celebrate other identities and beliefs,  
25 such removal constitutes discrimination on the basis of sexual orientation, gender identity,  
26 and/or gender expression.

1 50. Defendants' removal of Plaintiffs LGBTQ-inclusive quotes from the yearbook  
2 therefore deprives Plaintiffs of the equal rights and opportunities in a public educational  
3 institution as guaranteed under the California Education Code Sections 200 et seq.

4 **FIFTH CAUSE OF ACTION**  
5 (Violation of California Education Code § 51500)

6 51. Plaintiffs incorporate by reference the allegations of the above paragraphs as  
7 though fully set forth herein.

8 52. Education Code § 51500 states in relevant part that, "a school district shall not  
9 sponsor any activity that promotes a discriminatory bias on the basis of race or ethnicity,  
10 gender, religion, disability, nationality, or sexual orientation, or because of a characteristic  
11 listed in Section 220." Gender identity and gender expression are both characteristics listed in  
12 Section 220.

13 53. Plaintiffs' yearbook quotes expressed their LGBTQ identities and support of  
14 equality for LGBTQ people and they were removed by Defendants from the yearbook on this  
15 basis. This constitutes the promotion of a discriminatory bias on the basis of sexual orientation,  
16 gender identity, and gender expression in a school sponsored activity.

17 54. Defendants' removal of Plaintiffs LGBTQ-inclusive quotes from the yearbook  
18 therefore violates Education Code § 51500.

19 **SIXTH CAUSE OF ACTION**  
20 (Article I, § 7 of the California Constitution, void for vagueness)

21 55. Plaintiffs incorporate by reference the allegations of the above paragraphs as  
22 though fully set forth herein.

23 56. The rule against "politically divisive" yearbook statements is vague and leads to  
24 arbitrary enforcement. Uncertain requirements are a denial of due process of law, as guaranteed  
25 by Article 1, section 7 of the California Constitution, because they fail to inform Plaintiffs and  
26 other members of the public as to what speech or conduct will subject them to penalties and  
27 what forms of speech or conduct will not.



1 parents and/or guardians for bringing this lawsuit or for advocating for Plaintiffs'  
2 constitutional and statutory rights;

3 E. Award statutory damages and penalties pursuant to California Civil Code Section  
4 52(a); \$4000 or more per violation

5 F. Order Defendants to pay Plaintiffs' attorneys' fees and costs under Code Civ. Proc.  
6 § 1021.5, Education Code § 262,4, Civil Code 52(a), and any other applicable  
7 statutes.

8 G. Grant Plaintiffs such further relief as the Court deems just and proper.

9  
10 Dated: March 6, 2019

Respectfully Submitted,

11 By: /s/ Abre' Leann Conner

12 Abre' Leann Conner  
13 Attorney for Plaintiffs  
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**VERIFICATIONS**

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2 I, Steven Madrid, have reviewed this Verified Complaint for Declaratory and Injunctive  
3 Relief and Statutory Damages in the matter of *Madrid and M.G. v. Chawanakee Unified School*  
4 *District et al.* The facts stated are within my own personal knowledge and I know them to be  
5 true.

6 I declare under penalty of perjury under the laws of the State of California that the  
7 foregoing is true and correct.

8  
9 DATED: March 6, 2019

  
Steven Madrid

10  
11 I, M.G., have reviewed this Verified Complaint for Declaratory and Injunctive Relief and  
12 Statutory Damages in the matter of *Madrid and M.G. v. Chawanakee Unified School District et*  
13 *al.* The facts stated are within my own personal knowledge and I know them to be true.

14 I declare under penalty of perjury under the laws of the State of California that the  
15 foregoing is true and correct.

16  
17 DATED: March 6, 2019

  
M.G.