Rebekah Schultheiss
rebekah@millardoffices.com
(121199, Oregon)
Law Offices of Rebekah Millard, LLC
P.O. Box 7582
Springfield, OR 97475
(707) 227-2401

Timothy R. Snowball
tsnowball@libertyjusticecenter.org
(31379, California)
PARENTS Initiative of the
Liberty Justice Center
1629 K Street NW, Suite 300
Washington, D.C. 20006
(312) 637-2280

UNITED STATES DISTRICT COURT DISTRICT OF OREGON PORTLAND DIVISION

ALLISON ROBERTS, *Plaintiff*, v. PORTLAND PUBLIC SCHOOLS; CHANDRA WILSON-COOPER; and DEANNE FROEHLICH *Defendants.*	Case No. 3:26-cv-01680-SB **REPLY IN SUPPORT OF ALLISON ROBERTS'S MOTION FOR PRELIMINARY INJUNCTION**

Table of Contents

Introduction 1

Background 3

Additional Standards 11

Argument 11

I. This Court has jurisdiction over Allison's claims, because Defendants' actions—causing her continuing injuries—occur pursuant to District policies. 12

II. Defendants' proffered evidence suffers from serious evidentiary issues and should be weighed accordingly. 16

A. Allison denies Defendants' new allegations. 16

B. Defendants' decision to conceal necessary information from a declaration already filed under seal burdened Allison's ability to reply. 16

III. Allison continues to suffer irreparable harm because of the Defendants' Harassment and Nondisclosure Policies, and her requested preliminary relief is a proper remedy. 18

A. Allison continues to silence herself due to Defendants' June trespass threat under the Harassment Policy and is still subject to the Nondisclosure Policy. 18

B. Allison's requested preliminary relief puts Defendants on sufficient notice of what will be prohibited or required. 21

IV. Allison's chilled speech claim (Count II), based on speech activities from February to June 2026, is likely to succeed on the merits. 24

A. Allison's chilled speech claim based on the June trespass threat should be considered independently from her retaliation claim based on the February trespass order. 24

B. Defendants do not dispute that Allison's speech activities from February to June 2026 were constitutionally protected. 25

C. Defendants' June trespass threat chilled, and continues to chill, Allison's protected speech. 26

1. Defendants engaged in viewpoint discrimination concerning Allison's speech from February to June 2026 because the only possible basis for the June trespass threat was her disfavored speech activity. 27

2. Defendants engaged in selective enforcement by defining "harassment" according to viewpoint-based criteria. 30

3. The Harassment Policy is both overbroad and void for vagueness because it applies to protected speech and does not provide sufficient notice of what is prohibited. 31

i. The Harassment Policy is overbroad because it applied applies to protected speech. 31

ii. The Harassment Policy is void for vagueness because it does not provide sufficient notice of what is prohibited. 34

V. Allison is likely to succeed on the merits of her parental rights claims because Defendants continue to abridge her constitutionally required notice and opt-out rights. 35

A. Defendants do not dispute that they continue to deny Allison the required notice of LGTBTQIA+ curricula.....36

B. Defendants do not dispute that Allison continues to be subjected to the "secret gender transition" portion of the Nondisclosure Policy.....39

VI. Allison's retaliation claim (Count I) based on speech activities before February 2026 is likely to succeed on the merits. 42

Conclusion.....48

Certificate of Compliance 50

Table of Authorities

Cases

Ala. Ass'n of Realtors v. HHS
594 U.S. 758 (2021) 47

Butcher v. Knudsen
38 F.4th 1163 (9th Cir. 2022) 14

Capp v. City of San Diego
940 F.3d 1046 (9th Cir. 2019) 42–43

Carey v. Brown
447 U.S. 455 (1980) 35

City of Huntington Beach v. Newsom
2026 U.S. App. LEXIS 17884 (9th Cir. June 18, 2026) 40

Cornelius v. NAACP Legal Def. & Educ. Fund
473 U.S. 788 (1985) 28

Damiano v. Grants Pass Sch. Dist. No. 7
140 F.4th 1117 (9th Cir. 2025) 13

Dickinson v. Trump
174 F.4th 634 (9th Cir. 2026) 42

Disney Enters. v. VidAngel, Inc.
869 F.3d 848 (9th Cir. 2017) 11

Duran v. City of Douglas
904 F.2d 1372 (9th Cir. 1990) 45

Fortyune v. Am. Multi-Cinema, Inc.
364 F.3d 1075 (9th Cir. 2004) 21

Gonzalez v. Trevino
602 U.S. 653 (2024) 30

Grayned v. City of Rockford
408 U.S. 104 (1972) 14, 25

Hartman v. Moore
547 U.S. 250 (2006) 42

Hartzell v. Marana Unified Sch. Dist.
130 F.4th 722 (9th Cir. 2025) 43

Iancu v. Brunetti
588 U.S. 388 (2019) 27–28

LNG Dev. Co., LLC v. Port of Astoria
2010 U.S. Dist. LEXIS 22626 (D. Or. 2010) 11

Mackinney v. Nielsen
69 F.3d 1002 (9th Cir. 1995) 44

Mahmoud v. Taylor
606 U.S. 522 (2025) 35, 37, 38

McIntyre v. Ohio Elections Comm'n
514 U.S. 334 (1995) 25

Mirabelli v. Bonta
607 U.S. 492 (2026) 20, 39–40, 41, 46

Monell v. Dep't of Soc. Servs.
436 U.S. 658 (1978) 12, 14

Moody v. NetChoice, LLC
603 U.S. 707 (2024) 31

NAACP v. Claiborne Hardware Co.
458 U.S. 886 (1982) 25, 34

Peterson v. Highland Music, Inc.
140 F.3d 1313 (9th Cir. 1998) 11

Planned Parenthood Ariz., Inc. v. Humble
753 F.3d 905 (9th Cir. 2014) 11

Reed v. Town of Gilbert
576 U.S. 155 (2015) 26–27

Rodgers v. Bryant
942 F.3d 451 (8th Cir. 2019) 46

Rosenberger v. Rector & Visitors of the Univ. of Va.
515 U.S. 819 (1995) 29

Schmitt v. Rebertus
148 F.4th 958 (8th Cir. 2025) 46

Schneider v. State
308 U.S. 147 (1939) 25

Spence v. Washington
418 U.S. 405 (1974) 33

Snyder v. Phelps
562 U.S. 443 (2011) 34

Texas v. Johnson
491 U.S. 397 (1989) 33, 44

Thalheimer v. City of San Diego
645 F.3d 1109 (9th Cir. 2011) 46

United States v. Grace
461 U.S. 171 (1983) 25

United States v. Harris
705 F.3d 929 (9th Cir. 2013) 33, 34

United States v. McGraw-Hill Cos.
2014 U.S. Dist. LEXIS 183599 (C.D. Cal. Sept. 25, 2014) 17

United States v. Osinger
753 F.3d 939 (9th Cir. 2014) 30, 33, 34

United States v. Stevens
559 U.S. 460 (2010) 31

United States v. V-1 Oil Co.
63 F.3d 909 (9th Cir. 1995) 21

United States v. Williams
553 U.S. 285 (2008) 31

Virginia v. Hicks
539 U.S. 113 (2003) 32

Waln v. Dysart Sch. Dist.
54 F.4th 1152 (9th Cir. 2022) 29

Ward v. Rock Against Racism
491 U.S. 781 (1989) 26–27

Wash. State Grange v. Wash. State Republican Party
552 U.S. 442 (2008) 31

Wisconsin v. Yoder
406 U.S. 205 (1972) 36

Winter v. NRDC, Inc.
555 U.S. 7 (2008) 23

Judicial Authority

Fed. R. Civ. P. 65 21

Fed. R. Evid. 602.....18 n.3

Fed. R. Evid. 801.....18 n.3

Fed. R. Evid. 802.....18 n.3

Fed. R. Evid. 901.....18

Statutory Authority

20 U.S.C. § 1232g.....39

42 U.S.C. § 1983.....12

Constitutional Authority

First Amendment 22, 25–26, 29, 31, 33–35, 39, 41, 43–44, 46

Fourteenth Amendment.....35, 39, 46

Other Authority

Press Release, U.S. Dep't of Educ., U.S. Department of Education Finds California Department of Education Violated Federal Law by Hiding Students' "Gender Transitions" from Parents (Jan. 28, 2026). 40

Introduction

Instead of addressing Allison Roberts's two claims causing her ongoing irreparable harm—the chilled speech (Count II) and parental rights claims (Count III)—Defendants focus their entire energy on refuting her retaliation claim (Count I). But besides showing Defendants' ongoing pattern and practice of disliking her speech, the latter has nothing to do with the former.

Defendants leave almost all of Allison's evidence and argument for her chilled speech and parental rights claims uncontested. The counter evidence they do offer regarding retaliation is mired in evidentiary issues casting doubt on its veracity and admissibility. As a result, Defendants' arguments regarding viewpoint discrimination, selective enforcement, and overbreadth and vagueness under the Harassment Policy, applicable only to Allison's chilled speech claim, are *irrelevant*.

If Defendants would simply admit that they overstepped their authority by issuing Allison the June trespass threat based on nothing more than her disfavored speech activities, and that their Harassment Policy does not overcome her free speech rights, there would be no need for preliminary relief or a Count II. The same is true regarding the

Nondisclosure Policy. A recognition of the constitutional deficiency of current District policies concerning LGBTQ+ curricula and attempted gender transitions at school, and a concrete plan to address them in revised policies, would eliminate the need for preliminary relief or even a Count III. But they have declined to do so, *see* Opp. to PI Motion, ECF No. 28. These failures demonstrate the necessity of this Court's intervention to secure Allison preliminary relief from her ongoing irreparable injuries.

Allison does not dispute that Defendants have the right to address actual on-campus "harassment" presenting a threat to physical safety or the orderly operation of Lewis Elementary. But that authority does not grant Defendants free reign to regulate speech on the public sidewalk using an overbroad and vague Harassment Policy. Nor does it allow Defendants to subject parents to ongoing constitutional harms under a Nondisclosure Policy the Supreme Court has prohibited. It is these issues, *along with* the retaliation claim, that Defendants must answer. They have failed to do so. Allison's motion should be granted.

Background

In the fall of 2025, without any consultation with the larger school community, Defendant Portland Public Schools' Lewis Elementary—where Allison Roberts' youngest children attended school—changed the pride flag benches on campus to the "Intersex-Inclusive Progress Pride Flag." Verified Compl., ECF No. 1 at ¶ 17.

Allison is a Christian and opposes schools promoting what she considers controversial "trans" ideology that teaches children to question their sex and the way God made them. *Id.* at ¶ 14. Allison considers the Progress flag a political symbol that promotes values contradictory to her Christian faith. *Id.* at ¶ 19. As Allison was contemplating how to respond regarding the benches, C1 brought home an "identity flower" assignment. *Id.* at ¶ 20; **Ex. B**.

As part of this assignment, C1 was required to identify his "gender" for his teacher and classmates. *Id.* at ¶ 21. In later reviewing other materials related to the flower assignment, Allison discovered that C1's "identity flower" assignment was part of a larger lesson plan encouraging children to question their sex and gender identity. ECF No.

1 at ¶¶ 35, 40, 80; **Ex. D**. This included lessons regarding the use of "puberty blockers for transgender youth." *Id.* at ¶ 81.

As part of the flower lesson, C1 was told: "You may identify as a girl or a boy," and "maybe you feel like a girl or a boy today, but later that word doesn't feel right," and "you tell us and the rest of the world what feels right to you." *Id.* at ¶ 36; **Ex. C**. C1 was also instructed that it is possible to identify as neither gender. *Id.* at ¶ 37. C1 was told to answer the question "what gender identity term feels right to you today," and to consider "how you are expressing your gender today." *Id.* at ¶ 38. C1 was then required to present his answers to the entire class. *Id.* at ¶ 39. Allison received no notice of this "identity flower" assignment, nor the ability to opt C1 out from it. *Id.* at ¶ 22.

It was not until February 2026—after Allison was selectively trespassed from the Lewis Elementary campus, had her character attacked in public, and made the subject of an official investigation (more on this below)—that the District purported to give Allison the opportunity to opt C1 out of the remaining 2025–2026 school year lessons concerning "trans" ideology that contradicted her Christian beliefs. ECF No. 1 at ¶ 72; **Ex. I**. But Allison has received no such notice

or opportunity regarding C1 or C2 for the current school year, even though her children continue to attend schools within the District. *Id.* at ¶ 73.

The District's refusal stemmed from its own policy, 4.30.061-AD, Title XI (the Nondisclosure Policy), which prohibited providing parents with prior notice and forbids teachers from permitting parents to opt their children out of "LGBTQ2SIA+ affirming lessons." *Id.* at ¶¶ 74–79. Additionally, the District's Nondisclosure Policy permits the school to "socially transition" a child without notifying said child's parents. *Id.* at ¶ 77. The District's Nondisclosure Policy instructs staff to "[a]sk students and staff what pronouns they use," *id.* at ¶ 78, and instructs students to tell staff to use different pronouns if their "caregiver" "doesn't support my identity." *Student Name and/or Gender Marker Change Explained*, Portland Pub. Sch. 1 (rev. July 2023).[1]

In January, after learning about the benches and identity flower lesson, Allison engaged in oral and written speech, including passing out a letter on a public sidewalk, to express her concerns about her

[1]https://web.archive.org/web/20260814043002/https://resources.finalsite.net/images/v1757351036/ppsnet/yey7hb2rytid1xyuvvjo/NameChangeformAY23-24.pdf

children's education. ECF No. 1 at ¶¶ 25–47. This included a meeting she requested with the Lewis Elementary principal, Defendant Deanne Froehlich, in which three other school officials showed up without warning to confront Allison. When Allison asked what "gender" meant on the flower assignment, whether the class had been given other assignments regarding "gender," and why this lesson had gone forward without parental notice, C1's teacher shouted at Allison, "Why do you need to know?!" *Id.* at ¶ 30.

With Froehlich and other officials at Lewis Elementary refusing to address her concerns, Allison decided to write a letter to the Lewis Elementary community and pass it out on the sidewalk outside the school. *Id.* at ¶ 41, **Ex. E**. Titled "Open Letter to Lewis Parent Body," Allison's letter was critical of Froehlich and the situation regarding the introduction of trans ideology on campus. *Id.* at ¶¶ 42–47. No students were approached, no school property was involved, and no one was pressured to accept or read the material. *Id.* at ¶ 47.

One day after picking up her children from school, Allison was angrily confronted by John, the husband of Olivia, another parent whom Allison recognized. *Id.* at ¶¶ 48–53. John repeatedly yelled,

"White people are disgusting!" at the top of his lungs with children on the playground nearby. ECF No. 1 at ¶¶ 54–55. In frustration, Allison told John that he was the one being racist and cussed at him before leaving the area. *Id.* at ¶ 56. The entire interaction lasted no longer than five minutes. *Id.* at ¶ 57.

But the next morning, Allison and her family woke up to the sound of the police knocking at their door. *Id.* at ¶ 58. In front of her neighbors, the police served Allison with a one-year trespass order from the Lewis Elementary campus. *Id.* at ¶ 59; **Ex. F**. The trespass order, which Froehlich signed under the seal of the District, claimed that Allison engaged in "harmful, unlawful and/or disruptive behavior," under 7.40.010-AD(I)(A)1-2, and 1.80.021-P (the Harassment Policy), **Ex. G**, but did not provide any specific details of the incident. *Id.* at ¶ 63. John was not similarly cited, despite his own involvement in the heated conversation. Opp. to Mot. for Preliminary Injunction, ECF No. 28, at 9; ECF No. 1 at ¶ 62.

The order threatened that failure "to adhere to this trespass order may result in law enforcement involvement." *Id.* at ¶ 61. Allison has only ever received generalized and false allegations concerning her

alleged "unlawful" behavior from Defendant Director Chandra Wilson-Cooper. *Id.* at ¶¶ 65–67. No specific and concrete allegations have ever been provided. *Id.* Nevertheless, not only was Allison served with the one-year trespass order, but Froehlich sent an email out to the entire Lewis community falsely accusing Allison of engaging in "harassment, intimidation, and threatening behavior" as part of a pattern of "animus and harassment targeting vulnerable members of our community." *Id.* at ¶ 68; **Ex. H**.

Froehlich also stated that Allison's "hate speech" had been the subject of an ongoing investigation by the Civil Rights and Racial Equity and Social Justice teams at the District. *Id.* at ¶ 69. Froehlich went on to state that if other parents felt "unsafe" as a result of Allison's "hate speech," or saw Allison on campus, they should let the staff know immediately. *Id.* at ¶ 71. As a result of the trespass order and the subsequent rejected appeal, Allison was not allowed to attend C1's graduation to middle school, a major milestone in both of their lives. *Id.* at ¶ 87.

Desperate for help, Allison wrote a second letter to the Lewis Elementary community and passed it out with help from a family friend

on the sidewalk outside the school. *Id.* at ¶ 88; **Ex. K**. Again, no students were approached, no school property was involved, and no one was required to accept or read the material. *Id.* at ¶ 89. In the second letter, Allison directly challenged Froehlich and the District on what she considered "falsehoods, reputational distortions, institutional punishments, and public insinuations." *Id.* at ¶ 90.

In the letter, Allison challenged Defendants to produce evidence supporting the allegations of "harassment." ECF No. 1 at ¶ 91. Shortly thereafter, Froehlich sent another email out to the Lewis community attacking Allison by name. *Id.* at ¶ 92; **Ex. L**. In this email, Froehlich specifically targeted Allison's speech in her second letter as "antithetical to everything we stand for as a community." *Id.* at ¶ 93. According to Froehlich, because "Lewis is an inclusive school that respects the diversity of all who call it home," when "harm" or "fear" occurs there must be a response to "disrupt the harm." *Id.* at ¶ 94.

Three days later, Allison received an email from the District. *Id.* at ¶ 95. The District's email threatened that if Allison did not cease the so-called "harassment" of distributing a letter *off school property*, it would permanently extend the previous trespass order to apply to all District

property. *Id.*; **Ex. M**. Again relying on the District's Harassment Policy, **Ex. G**, this threat was premised on the District's definition of "harassment" and encompassed both Allison's written and verbal speech, including from the sidewalk. *Id.* at ¶ 97.

Due to the District's most recent threat, and her fear of suffering a permanent trespass, Allison has ceased distributing her letter and ended her previous speech activities regarding Lewis, the District's decision to introduce "trans" ideology on campus, Froehlich, and the people and events that led to her one-year trespass. *Id.* at ¶ 98.

Unclear about what conduct falls within the definition of "harassment," Allison's only communication with the District since its most recent threat was to again seek clarification regarding the scope of the Harassment Policy and the conduct it specifically prohibits. *Id.* at ¶ 99. This request for additional information has gone unanswered, *id.* at ¶ 100, and Allison has kept her silence.

Additional Standards

When considering a motion for a preliminary injunction, courts look favorably on uncontested, or "uncontroverted," evidence. *See*, *e.g.*, *Disney Enters. v. VidAngel, Inc.*, 869 F.3d 848, 866 (9th Cir. 2017) ("The

Studios also provided uncontroverted evidence that VidAngel offered *Star Wars: The Force Awakens* before it was available for legal streaming."); *Planned Parenthood Ariz., Inc. v. Humble*, 753 F.3d 905, 916 (9th Cir. 2014); *see also Peterson v. Highland Music, Inc.*, 140 F.3d 1313, 1324 (9th Cir. 1998); *LNG Dev. Co., LLC v. Port of Astoria*, 2010 U.S. Dist. LEXIS 22626, *11 (D. Or. 2010).

Argument

Defendants do not contest the majority of the evidence Allison offers in support of her motion for a preliminary injunction. On that point, the District's opposition is more revealing for what it does *not* say than what it actually does say.

Defendants do not say that their Harassment Policy has no power to silence Allison's speech activities on the public sidewalk *outside* Lewis Elementary. Defendants do not say that Allison has every right to criticize Defendants and their policies affecting her children. And they do not say their Nondisclosure Policy must conform with certain constitutional requirements recently recognized by the U.S. Supreme Court. Instead, they focus almost exclusively on Allison's retaliation claim (offering allegations which Allison vehemently denies based on

evidence rife with credibility and admissibility issues) and inappropriately attack the scope of the relief she seeks.

Allison's motion should be granted.

I. This Court has jurisdiction over Allison's claims, because Defendants' actions—causing her continuing injuries—occur pursuant to District policies.

Defendants are correct that a school district may be held liable under 42 U.S.C. § 1983 only where a plaintiff shows that it is a "person" by proving the governing body's "execution of a government's policy or custom . . . inflict[ed] the injury." *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 691, 694 (1978). But Defendants' municipal-liability argument fails because Allison establishes that her constitutional injuries resulted from official District policies.

Throughout her verified complaint and her brief in support of her motion, Allison made clear that the sources of her harm are two policies promulgated by the District and enforced by District officials. *See*, *e.g.*, Br. in Support of PI Mot., ECF No. 19-1, at 4–5 ("The District's refusal stems from its own policy, 4.30.061-AD, Title XI (the Nondisclosure Policy, which prohibits providing parents with prior notice and forbids teachers from permitting parents to opt their children out of

"LGBTQ2SIA+ affirming lessons."), 7 ("The trespass order…[was issued] under 7.40.010-AD(I)(A)1-2, and 1.80.021-P (the Harassment Policy), Ex. G.").

Allison went on to establish that the District employees in question were acting pursuant to these expressly adopted official policies, both when she was initially trespassed from Lewis Elementary for one year and later when she was threatened with permanent trespass from all District property directly pursuant to the District's Harassment Policy. *Id.* at 7–9; *see also Damiano v. Grants Pass Sch. Dist. No. 7*, 140 F.4th 1117, 1154 (9th Cir. 2025). Further, Allison establishes that Defendants' previous and continuing failure to provide her notice of her children's exposure to LGBTQ+ curricula and continued application of the District's "secret gender transition" policy occurred directly pursuant to the District's Nondisclosure Policy. These allegations are sufficient to establish *Monell* liability against Defendants.

There are also grounds for finding municipal liability because both Froehlich or Wilson-Cooper acted as final policymakers in enforcing the Harassment Policy. Allison separately offers evidence that the Harassment Policy is selectively enforced, overbroad, and vague.

Specifically, Allison alleges that the Harassment Policy is selectively enforced based on the viewpoint of the speaker, ECF No. 19-1 at 21–23, is overbroad because it applies to protected speech, *id.* at 23–25, and is unconstitutionally vague because it provides no meaningful standards and therefore authorizes discriminatory enforcement, *id.* at 24–25.

Under each theory, Froehlich and Wilson-Cooper *were* acting as final policymakers, because the Harassment Policy is so vague it allows them unconstitutional enforcement discretion. *See Butcher v. Knudsen*, 38 F.4th 1163, 1169 (9th Cir. 2022) ("[w]hen laws fail to 'provide explicit standards for those who apply them,' they 'impermissibly delegate basic policy matters for resolution on an ad hoc and subjective basis'") (citing *Grayned v. City of Rockford*, 408 U.S. 104, 108–109 (1972)). In other words, the policy means whatever they say it means at any given moment, based on how they choose to enforce it.

Based on the record, there should be no question that Allison has established that the source of her constitutional harms are District policies enforced by District officials. But instead of addressing these policies and actions head-on, Defendants appear to argue that because "PPS has no official policy permitting PPS employees to take unlawful

action," there can be no liability. ECF No. 28 at 13. But if such an assertion were a proper defense to a § 1983 action, there would never be municipal liability unless a municipality admitted illegal conduct. Thus, Defendants seek to defend themselves by decrying the very thing Allison establishes in support of her motion: that their policies are unconstitutional.[2]

II. Defendants' proffered evidence suffers from serious evidentiary issues and should be weighed accordingly.

A. Allison denies Defendants' new allegations.

As an initial matter, Allison denies each and every one of the allegations of illegal or harassing conduct Defendants make in their opposition and supporting evidence. She denies that she ever harassed or intimidated anyone. She denies that she ever, in any way, threatened any form of violence or unlawful action. She denies ever following any other parent, in her car or otherwise. And if given the opportunity to

[2] Defendants also assert that Froehlich and Wilson-Cooper are not final policymakers because after they retaliated against Allison (Count I), "a group of PPS employees heard Roberts's appeal and rendered a decision based on their objective interpretation of Roberts's conduct." ECF No. 28 at 15. But Defendants cite no authority for the proposition that a post-hoc, internal review by subordinate school district employees strips the initial actors of their authority, and corresponding liability, for the enforcement of the policy.

testify to refute these allegations, she would gladly do so. The fact that Allison is learning of these allegations for the first time *now* establishes that the Defendants' repeated denial of her requests for more information or participation in District processes hurt both parties ability to rectify the situation.

B. **Defendants' decision to conceal necessary information from a declaration already filed under seal burdened Allison's ability to reply.**

Rather than attempting to justify their previously stated grounds for silencing Allison, Defendants—for the first time—levy a serious accusation of stalking based on seemingly concealed evidence which leaves out key necessary information. *See* ORS 163.732 (criminalizing stalking); ECF Nos. 28, 29, 30, 31. The document, Wiser Declaration, ECF No. 29, Ex. 7—which Defendants claim is an email from another parent—identifies the license plate of the car that allegedly followed the accuser down specific, named streets.

Were that document produced in full, Allison could refute it any number of ways, such as by producing a photo of herself with her own car and its (presumably different) license plate, or providing a Google location history showing she did not travel on those listed streets on the

date of the accusation. However, Defendants have unjustifiably blacked out the street names and license plate number from the accusation so as to make direct and specific refutation impossible.

This defacing of evidence cannot be justified as redactions, because these documents were already submitted under seal. *See United States v. McGraw-Hill Cos.*, 2014 U.S. Dist. LEXIS 183599, at * 7 (C.D. Cal. Sept. 25, 2014) ("where a protective order is in place, the unilateral redaction of otherwise responsive documents is improper."). Furthermore, there is no privacy interest in a license plate number, which's only purpose is to be publicly displayed for the world to see. *See* ECF No. 29, Ex. 7.

Defendants' actions fly in the face of Fed. R. Evid. 901 ("To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is."). The result are burdens on Allison's ability to address Defendants' proffered evidence

and for the Court to evaluate it against Allison's evidence. The Court should weigh Defendants' evidence accordingly.[3]

III. Allison continues to suffer irreparable harm because of the Defendants' Harassment and Nondisclosure Policies, and her requested preliminary relief is a proper remedy.

A. Allison continues to silence herself due to Defendants' June trespass threat under the Harassment Policy and is still subject to the Nondisclosure Policy.

Due to Defendants' expanded June 2026 trespass threat based on Allison's *off-campus* speech activities, she has ceased all oral and written speech occurring on the sidewalk outside Lewis Elementary. *Supra* at 9–10. Attempting to obscure this clear evidence of ongoing irreparable harm, Defendants now claim through a one-off sentence without explanation that the June trespass threat does not apply to Allison's protected speech activities on the sidewalk outside Lewis Elementary. ECF No. 28 at 32. If this is true, though, then why was the

[3] Defendants' evidence also suffers from other serious evidentiary issues. Specifically, Allison objects to the declarations of Wiser, Wilson-Cooper, and Froehlich, and to their accompanying exhibits on the grounds of inadmissible hearsay and layered hearsay, Fed. R. Evid. 801–802, 805; and relatedly, lack of personal knowledge, Fed. R. Evid. 602. *See Pacesetter Consulting, LLC v. Kapreilian*, 2022 U.S. App. LEXIS 26895, at *3 (9th Cir. Sept. 26, 2022) (unpublished) (a declaration based "not [on] the personal knowledge of the declarant, but rather on vague assertions of what he 'learned'" should be disregarded).

second threat issued at all, given that those off-campus protected activities were—as Defendants seemingly concede—the only things that occurred between February and June 2026? *Compare* ECF No. 1; *with* ECF No. 28.

Does Allison have the right to criticize the District and District officials and policies? The District won't say. But without clarification on the scope of the Harassment Policy, Defendants' one-sentence assurance that she can engage in speech activities on the sidewalk is insufficient. Even if Allison were free from official threats, Defendants do not even address the other pressure tactics already used against her, which include Defendants putting out public communications attacking her and launching official investigations of her "hate speech."

Even if Defendants' new allegations accusing Allison of criminal conduct are true—they are not—they never asked Allison about any of the allegations against her or gave her the opportunity to respond before deciding to again attack her reputation publicly and issue the June trespass threat against her. Even now, the Defendants claim they have justification for the actions they took against Allison, leading her to believe that any future off-campus speech activity will result in the

threatened sanctions from Defendants. That's why injunctive relief is needed now—the censorship is a currently applied policy and Allison is *still* dealing with the ramifications.

The same is true of the irreparable harm she suffers from application of the Nondisclosure Policy. As the Supreme Court has stated: "[g]ender dysphoria is a condition that has an important bearing on a child's mental health," and policies that prevent a parent from knowing "when a child exhibits symptoms of gender dysphoria at school" are "policies [that] likely violate parents' rights to direct the upbringing and education of their children." *Mirabelli v. Bonta*, 607 U.S. 492, 496 (2026). Court intervention is particularly necessary here, because Defendants have already admitted to having different policies from the ones it represents to the public, Courtnage Decl., ECF No. 33 ¶ 4, and have already agreed once to provide Allison notice and opt-out opportunity only to then go back on their word. ECF No. 1 at ¶¶ 72–75.

B. Allison's requested preliminary relief puts Defendants on sufficient notice of what will be prohibited or required.

Defendants are correct that under Rule 65 an injunction must state its terms specifically and describe in reasonable detail the acts

restrained or required. Fed. R. Civ. P. 65(d)(1). But Defendants are incorrect that Allison fails to meet the standard for specificity applied in the Ninth Circuit, which requires only that those against whom an injunction is issued receive fair and precisely drawn notice of what the injunction actually prohibits or requires. *Fortyune v. Am. Multi-Cinema, Inc.*, 364 F.3d 1075, 1087 (9th Cir. 2004). Injunctions are not set aside under Rule 65(d) unless they are so vague that they have no "reasonably specific meaning." *Id.* (quoting *United States v. V-1 Oil Co.*, 63 F.3d 909, 913 (9th Cir. 1995)).

Allison requests that this Court order Defendants to cease enforcement of two discrete written policies: the District's Harassment Policy and Nondisclosure Policy.

As applied to Allison, her requested relief includes:

- Rescinding all previous trespass orders and threatened orders barring Allison from District property and adjacent public sidewalks;
- Ceasing the release of public statements to the District community denigrating Allison's character;
- Ceasing all official or unofficial investigations of Allison;
- Providing Allison notice of, and an opportunity to opt her children out from, LGTBQ+ curricula that contradicts her religious or personal beliefs;

- Providing Allison immediate notice of her children's potential attempts to "socially transition" genders at school.

ECF No. 19 at 2–3.

Regarding Allison's facial claims, her requested relief includes "[i]mmediately ceas[ing] enforcement of the District's Harassment Policy and Nondisclosure Policy against all other affected parents within the District's jurisdiction." *Id.* at 3.

It is unclear what exactly Defendants find vague or imprecise about the requested relief. Would Defendants be able to enforce the unconstitutional Harassment and Nondisclosure Policies? No, and they have no legal interest in doing so, to the degree the Court determines those policies are unconstitutional. This does not mean Defendants' hands would be tied if a true threat or campus disruption presented itself under the Harassment Policy, ECF No. 28 at 31–32, but only that they could not respond to that threat in violation of the First Amendment. The same is true of the Nondisclosure Policy. In terms of "denigration," would they be free to publicly label her speech "hateful" or impugn her character by claiming she is engaged in "animus and harassment targeting vulnerable members of our community"? No, at least insofar as these specific issues are concerned.

But Defendants' objection as to the need or administrability of Allison's requested relief belies their true objections. They do not think the requested relief is imprecise or vague as the standard requires; they just do not like it or think it is necessary. But that is for the Court to decide after determining the required factors for granting the motion, chief of which is Allison's likelihood of success on the merits and irreparable harm concerning her chilled speech and parental rights claims. Allison meets these requirements, and her fair and precise request for preliminary relief should be granted. *See Winter v. NRDC, Inc.*, 555 U.S. 7, 20 (2008).

IV. Allison's chilled speech claim (Count II), based on speech activities from February to June 2026, is likely to succeed on the merits.

Allison offers evidence that Defendants targeted her speech under the Harassment Policy in two separate instances: the February 2026 campus trespass order (retaliation) and the June 2026 trespass threat for all District property (chilled speech). The supporting facts for each, and the resulting counts, are independent of each other. However, Defendants do not dispute Allison's post-February evidence for Count

II, focusing their argument on the alleged incidents (based mostly on questionable evidence) that occurred before the initial trespass order.

This Court should independently weigh Allison's specific post-February evidence and arguments concerning her chilled speech claim.

A. Allison's chilled speech claim based on the June trespass threat should be considered independently from her retaliation claim based on the February trespass order.

Rather than address the two separate bases for Allison's alleged free speech injuries —one based on retaliation for past speech (Count I), and one alleging a chilling effect on future speech (Count II) —Defendants opposition attempts a sleight of hand in which they lump both claims into one. ECF No. 1 at 23–31. But determination of the pre-February 2026 retaliation claim has no bearing on the allegations Allison relies on between February and June for her separate chilled speech claim.

Even if everything Defendants claim as a basis for their February 2026 one-year trespass order were true—it is not—those grounds do not determine whether Defendants' June 2026 expanded trespass threat was unconstitutional. The June threat independently chills Allison's protected speech and provides a basis for granting her motion for a

preliminary injunction under Count II. Allison's evidence for Count II must be weighed separately from Count I.

B. Defendants do not dispute that Allison's speech activities from February to June 2026 were constitutionally protected.

Defendants do not contest that Allison had a protected interest in her speech activities occurring between February and June 2026, including passing out her second letter on the public sidewalk outside Lewis Elementary. This is hardly a surprise given that her applicable speech interests are obvious and well-established.

Allison's written and oral speech, *Schneider v. State*, 308 U.S. 147, 165 (1939), and peaceful picketing and leafletting, *United States v. Grace*, 461 U.S. 171, 176–77 (1983), between February and June 2026 are clearly protected by the First Amendment. The same is true of the content of Allison's speech criticizing Defendants and their policies. *See NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 913 (1982). Allison's action of pamphleteering and exercising the freedom of the press, *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 359–60 (1995), on a public sidewalk adjacent to school grounds, *Grayned*, 408 U.S. at 118, is equally protected.

In all, Allison offers evidence for *eight ways* her speech activities between February and June 2026 were protected by the First Amendment. *See* ECF No. 19-1. But rather than engage with the evidence Allison offers for these protected speech activities, Defendants opt to remain silent and leave these arguments uncontested.

C. Defendants' June trespass threat chilled, and continues to chill, Allison's protected speech.

Allison's arguments and evidence for Count II (chilled speech) concern three grounds: (1) viewpoint discrimination, (2) selective enforcement, and (3) overbreadth and vagueness. Any of these bases is sufficient to grant the motion, and Defendants refute none of them.

1. Defendants engaged in viewpoint discrimination concerning Allison's speech from February to June 2026 because the only possible basis for the June trespass threat was her disfavored speech activity.

Viewpoint discrimination is established where a regulation of speech cannot be "justified without reference to the content of the regulated speech," or when the government adopted or enforced the regulation "because of disagreement with the message [the speech] conveys." *Reed*

v. Town of Gilbert, 576 U.S. 155, 164 (2015) (quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989)).

Given that Allison was engaged in clearly protected speech activities from February to June 2026, Defendants have no non-speech basis to claim application of the Harassment Policy and issuance of the June expanded trespass threat. After the first trespass order, Allison did not enter the Lewis Elementary campus. *See* ECF No. 1 at ¶¶ 87–89. There were no heated exchanges with other parents and no purported disruption.[4] *See id.* at ¶¶ 95–100. The only thing that happened—the only thing Defendants can point to from February to June 2026—is Allison expressing disfavored viewpoints in written and oral communications from a public sidewalk near the school. *Supra* at 8–10. Such viewpoint-based speech regulation, *Iancu v. Brunetti*, 588 U.S.

[4] Although Defendants claim put forth hearsay evidence that as of September 2026 they became "aware" that "on or about" April 2026 Allison followed another parent in her car, they do not attempt to invoke this as grounds for the June threat and, even if they did, the allegation is based on improperly concealed evidence. *Supra* 16–18. Nor do they offer grounds as to how this incident would be relevant to a school policy. *See* ECF No. 28. Similarly, they inform the Court that Allison was posting content about Lewis Elementary on her social media, *id.* at 3, which, again, is irrelevant. *See Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180, 190 (2021).

388, 393–94 (2019), and curtailment of speech from a public sidewalk, *Cornelius v. NAACP Legal Def. & Educ. Fund*, 473 U.S. 788, 800 (1985), are subject to strict constitutional scrutiny.

Defendants cannot meet this burden.

There was no "broader continuing pattern" at issue, ECF No. 28 at 21, because anything that had allegedly occurred on campus before February 2026 had been resolved by the February trespass order. If there had been alleged on-campus "harassment" before February, it had now ceased. Defendants thus cannot justify their June expanded trespass threat—or the likelihood that Allison will again be publicly vilified or subjected to a District investigation—without relying on the content of her views and speech. *Nothing* happened between February and June that would justify the second expanded trespass threat, even if the Harassment Policy was constitutionally sound, which it is not.

Tellingly, Defendants omit this entire period from their treatment of the facts in their opposition, besides providing inadmissible allegations about Allison following parents in her vehicle or parking near their homes, *see* ECF No. 28 at 8–9, which in any event Allison strongly denies. But no speculation on their intent is required. Defendants' June

trespass threat, which is still in effect and which they attempt to downplay by labeling as a "communication," makes specific mention of both Allison's second letter and her act of "distributing" it. ECF No. 1 at ¶ 148. But for the content of Allison's speech in her second letter, which Defendants' second trespass threat specifically references, *see id.* at ¶ 138, Allison would—like any other member of the District community—be allowed to write, speak, and share her views with others as she wished. But because Defendants disfavor Allison's views as "hate speech" or as otherwise objectionable, *see id.*, they have sought to silence her, and the chill on her speech continues to this day.

2. Defendants engaged in selective enforcement by defining "harassment" according to viewpoint-based criteria.

The government is prohibited "from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction." *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995); *see also Waln v. Dysart Sch. Dist.*, 54 F.4th 1152, 1163 (9th Cir. 2022). Thus, even a viewpoint-neutral policy can become a violation of the First Amendment when it is

enforced in a discriminatory matter. *Gonzalez v. Trevino*, 602 U.S. 653, 657–658 (2024).

Here, the only previous enforcement of the Harassment Policy was based on the incident between Allison and John on the campus of Lewis Elementary in early February 2026. The fact that John faced no consequences for screaming "white people are disgusting" at Allison repeatedly on school property, *see* ECF No. 28 at 9, while Allison was banned for criticizing school policies on *a public sidewalk* demonstrates that the Harassment Policy has resulted in "seriously discriminatory enforcement." *United States v. Osinger*, 753 F.3d 939, 943–44 (9th Cir. 2014). Even if this heated exchange was a legitimate basis for the issuance of a trespass order, the order should have applied equally to *both* parents involved, not only to the one whose speech Defendants disfavored.

Defendants may now claim that they sought to punish Allison based on other complaints received (but that they have failed to fully disclose). *Supra* 16–18. But the stated basis for the trespass order in February was the exchange with John. ECF No. 1 at ¶ 60. Accordingly, the District's Harassment Policy, even if facially neutral, is enforced in a

discriminatory manner based on the disfavored viewpoint of the speaker, and the resulting chill on Allison's speech has continued since June 2026.

3. The Harassment Policy is both overbroad and void for vagueness because it applies to protected speech and does not provide sufficient notice of what is prohibited.

i. The Harassment Policy is overbroad because it applies to protected speech.

A government speech restriction is invalidated as overbroad if "a substantial number of its applications are unconstitutional, judged in relation to the statute's plainly legitimate sweep." *United States v. Stevens*, 559 U.S. 460, 473 (2010) (quoting *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449, n.6 (2008)). The overbreadth analysis proceeds in two steps. A court first construes the regulation, because "it is impossible to determine whether a statute reaches too far without first knowing what the statute covers." *United States v. Williams*, 553 U.S. 285, 293 (2008). Then, identifies which of the statute's applications offend the First Amendment and "measure[s] them against the rest" of the statute's applications. *Moody v. NetChoice, LLC*, 603 U.S. 707, 725 (2024).

Here, the District's Harassment Policy defining "harassment" as "all forms of harassment" is overbroad. The Harassment Policy appears, through Defendants' enforcement actions, to encompass protected oral and written expression, including leafletting, from public sidewalks concerning matters of public concern that have no bearing on campus safety. ECF No. 1 at ¶¶ 152–55. As noted above, the *only* activities Allison were engaged in after Defendants' February trespass order were protected speech from a public forum.

Defendants' contentions that the Harassment Policy applies only to conduct and not speech (a fallacious distinction, as shown below), ECF No. 28 at 25, is belied by the fact that they issued her an expanded trespass threat in June 2026 based *only* on pure speech activities occurring off campus on a public sidewalk. Hence, the Harassment Policy, based on Defendants' own enforcement activities, is addressed to "speech or to conduct necessarily associated with speech (such as picketing or demonstrating)." *Virginia v. Hicks*, 539 U.S. 113, 124 (2003). Further, Defendants' supposed distinction between speech and conduct lacks merit.

While it is true that the First Amendment does not protect all conduct simply because the actor intends to express something, it also does not withdraw protection merely because expression takes the form of conduct rather than words. Conduct crosses into First Amendment territory when it is, in the Court's phrase, "sufficiently imbued with elements of communication." *Texas v. Johnson*, 491 U.S. 397, 404 (1989) (quoting *Spence v. Washington*, 418 U.S. 405, 409 (1974)). It is difficult to imagine a more clearly protected speech activity than handing out fliers criticizing government policies and officials from a public sidewalk.

ii. The Harassment Policy is void for vagueness because it does not provide sufficient notice of what is prohibited.

A regulation "is unconstitutionally vague if it fails to provide a person of ordinary intelligence fair notice of what is prohibited or is so standardless that it authorizes or encourages seriously discriminatory enforcement." *Osinger*, 753 F.3d at 943–44 (quoting *United States v. Harris*, 705 F.3d 929, 932 (9th Cir. 2013)). The Harassment Policy is void for vagueness. The circular definition of "harassment" as

"harassment" is effectively no definition at all and provides no notice of what speech or conduct is prohibited. ECF No. 1 at ¶ 154.

To this day, Allison remains unaware of what specific speech or other activities the District deems "harassment," and out of fear of permanent trespass, has ceased all speech and petitioning efforts since June 2026. *Id.* at ¶ 155. Defendants' opposition offers no clarity on this question. *See* ECF No. 28. Defendants submit that the Harassment Policy is sufficiently definitive because "[h]arassment is necessarily a fluid concept and can take many forms." But the "form" that Defendants identify here is, in Froehlich's words, "hate speech." ECF No. 1 at ¶ 69.

The government cannot punish speech on public matters "simply because it is upsetting or arouses contempt." *Snyder v. Phelps*, 562 U.S. 443, 458 (2011). Speech on public issues "has always rested on the highest rung of the hierarchy of First Amendment values," *Claiborne Hardware*, 458 U.S. at 913 (1982) (quoting *Carey v. Brown*, 447 U.S. 455, 467 (1980)), and 'things Froehlich finds personally "hateful"' is not a sufficiently specific standard to stop discriminatory enforcement. *Osinger,* 753 F.3d at 944 (quoting *United States v. Harris*, 705 F.3d 929, 932 (9th Cir. 2013).

V. Allison is likely to succeed on the merits of her parental rights claims because Defendants continue to abridge her constitutionally required notice and opt-out rights.

Allison submits that Defendants' continued failure to provide her constitutionally required notice and opt-out rights concerning her children violates her parental rights. The District does not dispute that it has failed to provide her the required notice in the past, nor that it is continuing to deny her notice in the future. Thus, Defendants' failure to conform to the requirements of the First and Fourteenth Amendments requires preliminary relief.

A. Defendants do not dispute that they continue to deny Allison the required notice of LGBTQIA+ curricula.

The Supreme Court has held that a public school violates the First Amendment when it refuses to provide parents notice and an ability to opt their children out from lessons and assignments related to LGBTQIA+ issues. *Mahmoud v. Taylor*, 606 U.S. 522, 530, 569 (2025) (emphasizing that "a government cannot condition the benefit of free public education on parents' acceptance" of instruction that violates their religious beliefs).

It has specifically listed teachers asking students, "**What pronouns fit you best?**" as an example of an LGBTQIA+-related curriculum

component that would require notification and opt-out opportunities and held that declining to allow notification and opt-out would pose an "objective danger to the free exercise of religion." *Id.* at 534 (bold in original) (second quote borrowing from *Wisconsin v. Yoder*, 406 U.S. 205, 218 (1972)).

In her verified complaint, Allison provided evidence that her child was given an assignment asking her to pick a gender identity and telling her "'You may identify as a girl or a boy,'" and "maybe you feel like a girl or a boy today, but later that word doesn't feel right," and "you tell us and the rest of the world what feels right to you." Complaint, ECF No. 1 at ¶ 36. Defendants concede that this did happen. ECF No. 28, 2–3.

In her verified complaint, Allison explained that when she requested notification and opt-out of such lessons, District staff berated her and shouted: "Why do you need to know?!" ECF No. 1 at ¶ 30. Defendants concede this happened. *See* ECF No. 28.

In her verified complaint, Allison said she was told by the school that she *would* receive notice and opt-out opportunity, only for Defendants to then renege on that promise. ECF No. 1 at ¶¶ 72–75. Defendants do not

dispute that this is true, and do not pledge to provide Allison notification and opt-out rights going forward. *See* ECF No. 28.

But rather than address this flagrant disregard of their constitutional obligations, Defendants offer a declaration from the self-described "Senior Legal Counsel for Portland Public Schools." ECF no. 33 at ¶ 2. This declarant claims that, even though the Nondisclosure Policy stated that educators must "deny all requests for prior notification and/or student exemptions from LGBTQ2SIA+ affirming lessons," ECF No. 1 at ¶ 75, this is not the "actual practice" of the school and that the policy has since been edited to remove this line from the rules. ECF No. 33 ¶ 4.

Regardless of whether this is true or not, even the current Nondisclosure Policy falls short of what the Supreme Court held required in *Mahmoud v. Taylor*. It is not enough that Defendants avow they will no longer presumptively *deny* opt-out requests. They are instead affirmatively required to *provide* notice to parents of lessons which creates a threat of undermining the religious beliefs parents wish to instill in their children. Without notice, parents cannot possibly be expected to exercise their right to opt out. This is a duty the current

Nondisclosure Policy, and the repeated assertions in Defendants' opposition, fail to meet. This is especially true given the continued denial of such rights to Allison, and the failure to properly train District staff as to their legal obligations under *Mahmoud*. *See* ECF No. 33 ¶ 4 (acknowledging that, even after the time when Allison had been erroneously assured she could opt her child out, the District's own website directed staff to "Deny all requests for prior notification and/or student exemptions from LGBTQ2SIA+ affirming lessons").

Defendants point to no method by which the teachers of Allison's children would be aware that the stated policy on the website was not the real policy and that they should instead be following some secret, unwritten rulebook that does provide notice and opt-out. Defendants further obfuscate by saying that "[w]hen a PPS parent seeks to opt their child out of instruction, PPS provides them a Curriculum Opt-Out Request Form." ECF No. 28 at 9. But that is, again, irrelevant to the issue here. Allison *has* requested notice and opt-out. ECF No. 1 at ¶¶ 30, 72–75. The school is refusing to comply with her request, *see* ECF No. 28, even though that is something the Supreme Court has explicitly said is unacceptable. *Mahmoud*, 606 U.S. at 569.

B. Defendants do not dispute that Allison continues to be subjected to the "secret gender transition" portion of the Nondisclosure Policy.

Just this year, the Supreme Court held that because "[g]ender dysphoria is a condition that has an important bearing on a child's mental health," policies that "conceal that information from parents and facilitate a degree of gender transitioning during school hours. . . . likely violate parents'" Fourteenth Amendment "rights to direct the upbringing and education of their children" and First Amendment free exercise rights "to raise their children in accordance" with their religious beliefs. *Mirabelli*, 607 U.S. at 497.

Reiterating this ruling, a Ninth Circuit panel held that it would likely be a violation of the Fourteenth Amendment to conceal from parents "information about their children exhibiting symptoms of gender dysphoria" absent evidence that said parents were "unfit" and their children at "risk of abuse." *City of Huntington Beach v. Newsom*, 2026 U.S. App. LEXIS 17884, *14 (9th Cir. June 18, 2026).

Furthermore, federal law requires schools not to conceal "educational records" that "contain information directly related to a student," Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and

Department of Education guidance explicitly states that this prohibits "withhold[ing] information [regarding] students' so-called 'gender transitions' from their parents." Press Release, U.S. Dep't of Educ., *U.S. Department of Education Finds California Department of Education Violated Federal Law by Hiding Students' "Gender Transitions" from Parents* (Jan. 28, 2026).[5]

Defendants attempt to downplay the relevancy and applicability of this federal law by arguing that Allison does not have standing and has not asserted an injury in fact. ECF No. 28 at 27–28. But both the Supreme Court and Ninth Circuit precedent on secret transitions emphasized the constitutional injury comes from the potential for concealment itself (the deprivation of constitutional rights "constitutes irreparable harm") and does not require a parent to wait for a secret transition to occur to have standing to sue. *See Mirabelli*, 607 U.S. at 497; *Huntington Beach*, 2026 U.S. App. LEXIS 17884 at *14.

Defendants' codified policy of withholding from parents their children's social transitions runs headlong into superseding

[5] https://www.ed.gov/about/news/press-release/us-department-of-education-finds-california-department-of-education-violated-federal-law-hiding-students-gender-transitions-parents.

constitutional precedent. Indeed, the policy here prevents the affirmative disclosure policies that *Mirabelli* deemed were "constitutionally required." *Huntington Beach*, 2026 U.S. App. LEXIS 17884 at *11. Allison continues to be subjected to a policy which infringes upon her parental rights, and Defendants' argument attempts to skirt the issue, failing to confront its substance.

VI. Allison's retaliation claim (Count I), which is based on speech activities before February 2026, is likely to succeed on the merits.

Even if everything in the Defendants' declarations is true, it still does not justify their retaliatory actions issuing Allison a one-year-trespass order for Lewis Elementary. Raising one's voice or speaking passionately about an issue you care deeply about is not "harassment," and the District never looked further than the content of Allison's speech, asked her about her intentions, or established that she was a threat to anyone before issuing the trespass order in February.

A plaintiff will prevail in a First Amendment retaliation suit if she can "show that (1) he or she was engaged in a constitutionally protected activity; (2) the defendant's actions would chill a person of ordinary firmness from continuing to engage in the protected activity; and (3) the

protected activity was a substantial or motivating factor in the defendant's conduct." *Dickinson v. Trump*, 174 F.4th 634, 642 (9th Cir. 2026). The protected activity is a substantial or motivating factor if "the adverse action against the plaintiff would not have been taken absent the retaliatory motive." *Capp v. City of San Diego*, 940 F.3d 1046, 1053 (9th Cir. 2019) (quoting *Hartman v. Moore*, 547 U.S. 250, 260 (2006)).

First, Allison was engaged in protected speech activities prior to February 2026. This includes not only her first letter passed out on the sidewalk outside Lewis Elementary questioning Defendants and their policies, ECF No. 1 at ¶¶ 41–47, but also her meeting with school officials, at which officials were actively hostile to her views. *Id.* at 25–40. These activities were unquestionably protected speech.

Second, a person of ordinary firmness would have been chilled by Defendants' subsequent conduct. This includes issuing Allison a one-year trespass order from her children's school, selectively enforcing the Harassment Policy, launching attacks on her character in public communications to the community, making her the subject of an official District investigation. *See* ECF No. 1.

Lastly, Allison's disfavored speech and petition activities were a substantial or motivating factor in Defendants' retaliatory conduct. Defendants do not even appear to contest that their actions up to February 2026 were a reaction to Allison's protected speech. They certainly never asked her about it, or gave her an opportunity to explain herself. Their focus on her speech, however, is clearly evidenced by Defendants taking the opportunity to selectively enforce its Harassment Policy by issuing Allison a one-year trespass order, but failing to take *any* action against John, another equally involved parent.

Defendants attempt to hinge the entire question upon Allison's speech on campus, which they characterize as "threatening" and "intimidation," and yet cannot support the argument that it falls outside the scope of First Amendment protection. In fact, by citing *Hartzell v. Marana Unified Sch. Dist.*, 130 F.4th 722, 737 (9th Cir. 2025) in which school district held that a school district policy allowing the district to prohibit speech it found offensive or inappropriate ran afoul of the First Amendment and distinguishing a trespass based on protected speech criticizing a principal and a trespass for an assault, Defendants all but concede the legality of Allison's conduct.

Defendants state that she did not just "express her views; rather she 'gesticulated' and 'waved her arms' and continued to engage in debate." But animated and passionate manners of speech do not change the speech's protected nature, nor does it make the speech the equivalent of an assault. Allison's alleged animated gestures, raised voice, and foot-stomping did not automatically transform her expression into unprotected conduct. Those actions may have conveyed emphasis, frustration, and opposition, but expressive intensity is not itself a First Amendment exception.

Unless Defendants can show that Allison's conduct constituted a true threat or a substantial and objectively identifiable disruption governed by a valid content-neutral rule, the conduct remains protected expressive activity. See *Johnson*, 491 U.S. at 404; *City of Houston v. Hill*, 482 U.S. 451, 461–63 (1987); *Mackinney v. Nielsen*, 69 F.3d 1002, 1007–08 (9th Cir. 1995); *Duran v. City of Douglas*, 904 F.2d 1372, 1377–78 (9th Cir. 1990). Defendants do not provide any facts to support a finding that Allison threatened anyone. Stomping one's feet and waving one's arms do not constitute a threat. Making people uncomfortable is not the equivalent of threatening them.

The fact that another parent's equally passionate outburst garnered an unequal response serves to support this very point. The Defendants' overreaction to a seemingly simple argument between parents after school was either a sufficient basis for the trespass order, or it was not. If it was, then John also should have had the same consequences given his own involvement. If it was not, then the basis to act only against Allison must have been something else. Froehlich's own stated motivation for sending her first community-wide email was to make members of the community feel safe from "hate speech," not the specifics of the incident. To the degree that Allison's retaliation claim has any bearing on her chilled speech claim, it is to show Defendants continued pattern and practice of taking action against her as a result of disfavored speech.

VII. Allison's constitutional injuries establish the remaining factors for preliminary relief because her constitutional rights are balanced only against Defendants' illegitimate interests.

Allison meets the remaining requirements for a preliminary injunction because her ongoing constitutional injuries outweigh Defendants' interest in silencing her or subjecting her children to unconstitutional sex or gender-based policies. Courts considering

requests for preliminary injunctions have consistently recognized the significant public interest in upholding First Amendment rights, *Schmitt v. Rebertus*, 148 F.4th 958, 970 (8th Cir. 2025) ("the balance of the equities generally favors the constitutionally protected freedom of expression") (quoting *Rodgers v. Bryant*, 942 F.3d 451, 458 (8th Cir. 2019); *Thalheimer v. City of San Diego*, 645 F.3d 1109, 1129 (9th Cir. 2011), and Fourteenth Amendment parental rights. *Mirabelli*, 607 U.S. at 497.

Set against those interests, Defendants can muster only a preference for a reduction in speech they do not like, or a preference for certain views on human gender and sexuality. These preferences are not simply outweighed: they are illegitimate. And an interest the Constitution prohibits cannot register on the scale at all. *Ala. Ass'n of Realtors v. HHS*, 594 U.S. 758, 766 (2021) (officials may not "act unlawfully even in pursuit of desirable ends"). Granting Allison's requested relief would burden Defendants with nothing they are lawfully entitled to keep, asking only that they obey a command the Constitution imposes.

For their part, Defendants continue their attempted sleight of hand to make Allison's retaliation claim the purported sole focus of her

motion. Not so. Instead, the Court should consider *each* of the three grounds on which Allison seeks relief, including the two that form the primary basis for her ongoing injuries and that Defendants leave largely uncontested. Again, even if Allison were to fail on her retaliation claim—which she should not—that would have absolutely no impact on her chilled speech and parental rights claims and the ongoing irreparable injuries continuing to arise from them.

Conclusion

Defendants do not contest the majority of the evidence Allison Roberts produced in support of her motion for a preliminary injunction. Defendants instead put all their efforts behind opposing Allison's retaliation claim with questionable evidence. But whether Defendants prevail on their retaliation claim has no bearing on Allison's other claims or the ongoing injuries she is suffering from chilled speech and the loss of constitutionally guaranteed parental rights. Allison's motion for a preliminary injunction should be granted.

Respectfully Submitted,

/s/ TR Snowball

Timothy R. Snowball*
Kathryn Cosgrove*
Tim Kilcullen*
Counsel for Plaintiff
PARENTS Initiative of the
Liberty Justice Center
1629 K Street N.W.
Suite 300
Washington, D.C. 20006
Ph.: 312-637-2280
tsnowball@libertyjusticecenter.org
kcosgrove@libertyjusticecenter.org
tkilcullen@libertyjusticecenter.org
*Pro hac vice pending

Rebekah Schultheiss
rebekah@millardoffices.com
(121199, Oregon)
Law Offices of Rebekah Millard, LLC
P.O. Box 7582
Springfield, OR 97475
(707) 227-2401

*Admitted Pro Hac Vice

Certification of Compliance with L.R. 7-2(b)

These objections comply with the applicable word-count limitation under LR 7-2(b) because it contains 9,158 words including headings, footnotes, and quotations, but excluding the caption, table of contents, table of cases and authorities, signature block, exhibits, and any certificates of counsel.

The 24th day of September 2026.

/s/ TR Snowball

PARENTS Initiative of the
Liberty Justice Center
1629 K Street N.W.
Suite 300
Washington, D.C. 20006
(512) 481-4400
tsnowball@libertyjusticecenter.org