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16 | IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT, SAN JOSE DIVISION

17 |
18 | Rachel Bañuelos, Anthony Rodriguez, by)
19 | his guardian ad litem, Rachel Bañuelos,)
20 | Plaintiffs,)
21 | vs.)

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF
AND DAMAGES

22 | Mark Tracy, in his individual capacity)
and official capacity as Sheriff/Coroner,)
23 | Steve Watson, in his)
individual capacity and official capacity)
as Deputy Sheriff, Pajaro Valley)
24 | Unified School District ("PVUSD"),)
Mary Anne Mays, Superintendent of the)
25 | Pajaro Valley Unified School District, in)
her individual and official capacity,)
26 | Rhea de Hart, Sharon Gray, Evelyn Volpa,)
Carol Roberts, Dan Hankemeier,)
27 | Willie Yahiro, Sandra Nichols, Board)
Members of the Pajaro Valley Unified)
28 |

1 School District, in their official capacities,)
2 Santa Cruz County¹ Mardi Wormhoudt,)
3 Jan Beautz, Ellen Pirie, Mark Stone,)
4 Tony Campos, Supervisors for the County)
of Santa Cruz, in their official capacities)
Defendants.)

5
6 **INTRODUCTORY STATEMENT**

7 1. This suits seeks injunctive relief from, and damages suffered as a result of, the Defendants'
8 inaccurate, unconstitutional, arbitrary and discriminatory identification of Mr. Rodriguez (Plaintiff)
9 as a gang member . The Defendants arbitrarily identified Plaintiff as a gang member and based
10 solely upon that classification, illegally seized, detained, and obtained information from Rodriguez,
11 characterized him as a gang member and disseminated the information to a gang database in
12 furtherance and as a consequence of the illegal identification.

13 2. The Defendants base their actions, in part, on the claim that Rodriguez has been seen in a certain
14 part of the school campus which they have identified as a notorious gang hangout. Defendants,
15 however, have taken no action either to warn students or to prevent such gang activity from
16 occurring at that location.

17 3. Defendants also justify their conduct based upon allegations that Plaintiff violated an
18 unconstitutional dress code which, in its relevant parts, prohibits "gang style attire" that "may vary
19 from year to year" and that he associated with other students whom Defendants claim are gang-
20 identified.

21 4. Defendants listed and continue to list Rodriguez as "gang-related" in their data collection system
22 and continue to actively maintain information relating to him despite having been notified that it is
23 Defendants' conduct was based on unconstitutionally vague and over broad guidelines and violated
24 Plaintiff's rights under the federal and state constitutions as well as the statutory and common law
25 of California. Rodriguez is a special education student and does not belong to a gang.

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2 **JURISDICTION**

3 5. Plaintiff's claims for declaratory, injunctive and monetary relief are brought pursuant to the First,
4 Fourth, and Fourteenth Amendments of the United States Constitution, 42 U.S.C. §§ 1983, 1985 and
5 1986; Article 1, Section 1, 7(a) and 13 of the California Constitution, California Civil Code §§ 52.1
6 *et seq.*; California Government Code §§ 11135 *et seq.*; and California common law. The facts
7 supporting the violations of state law are identical to those supporting the violations of federal law.

8 6. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1343, and 2201. The Court has
9 supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367. Declaratory and
10 injunctive relief are authorized under 28 U.S.C. §§ 2201 and 2202.

11 7. All available administrative remedies have been exhausted. Plaintiff has filed claims under the
12 California Tort Claims Acts which were denied by the County of Santa Cruz on February 10, 2004
13 and deemed denied by Pajaro Valley Unified School District ["PVUSD"] by operation of law prior
14 to the filing of this lawsuit.

15 8. Venue is proper in this Court because the conduct giving rise to these claims occurred within the
16 District in the County of Santa Cruz, California.

17 **PARTIES**

18 9. Plaintiff Anthony Rodriguez [Rodriguez] is a special education student currently enrolled in the
19 Pajaro Valley Unified School District [PVUSD] Renaissance High School in Watsonville, California
20 in Santa Cruz County, California. Anthony Rodriguez was enrolled at Aptos High School in Santa
21 Cruz County, California during the times of the events which are the subject of this action. He is
22 seventeen years of age and expects to graduate in the 2003-2004 school year. He is of Latino or
23 Hispanic ancestry and national origin and ethnic origin identification.

24 10. Plaintiff Rachel Bañuelos is a resident of Santa Cruz County and is the mother of Anthony
25 Rodriguez. She is of Latino or Hispanic ancestry and national origin and ethnic origin identification.
26 She sues on her own behalf and as the guardian ad litem of her son, Anthony Rodriguez.

1 11. Defendant Sheriff Mark Tracy is the Sheriff/Coroner of Santa Cruz County. He is sued in his
2 individual and official capacities. He is responsible for the day to day conduct of his department and
3 its employees.

4 12. Defendant Santa Cruz County [County] is a governmental sub-division of the State of
5 California. It is responsible for the maintenance, control, and supervision of the Sheriff and his
6 employees and for establishing policies, procedure and customs by which its employees conduct
7 their duties.

8 13. Defendants Mardi Wormhoudt, Jan Beautz, Ellen Pirie, Mark W. Stone, and Tony Campos
9 [Supervisors] are members of the Santa Cruz County Board of Supervisors and are sued in their
10 official capacities. The Santa Cruz County Board of Supervisors is responsible for the maintenance,
11 control, and supervision of the Sheriff and his employees and for establishing policies, procedure
12 and customs by which its employees conduct their duties. They Supervisors are sued in their
13 official capacity.

14 14. Defendant Steve Watson is a deputy sheriff in the Santa Cruz County Sheriff's Office [SCCSO].
15 He also is an employee of the PVUSD. He was acting at all relevant times as the co-employee of
16 both the Sheriff's office and the PVUSD. He is sued in his individual and official capacities.

17 15. Defendant Mary Anne Mays is the superintendent of PVUSD. She is responsible for day to
18 day conduct of the PVUSD and its employees. She is sued in her individual and official capacities.

19 16. Defendants Rhea De Hart, Carol Roberts, Dan Hankemeier, Evelyn Volpa, Sharon Gray, Willie
20 Yahiro, and Sandra Nichols are the members of the school board of PVUSD [Board]. They are
21 elected officials who are the governing board of the district. They oversee and are responsible for
22 the conduct of PVUSD and defendant Superintendent Mary Anne Mays. They are sued in their
23 official capacities .

24 17. Defendant Pajaro Valley Unified School District [PVUSD or District] is a school district
25 operating within the State of California. It is responsible for the maintenance, control, and
26 supervision of its employees and for establishing policies, procedure and customs by which its
27

1 employees conduct their duties.

2 18. Plaintiffs are informed and believe and so allege that, at all relevant times, each defendant was
3 acting within the course and scope of her or his employment and under color of state law. Each
4 defendant has caused, and is responsible for, the unlawful conduct complained of here. Each
5 defendant is responsible for plaintiff's injuries by personally participating in the unlawful conduct
6 or in acting jointly and in concert with others to do so; authorizing, acquiescing, ratifying or failing
7 to take action to prevent the unlawful conduct; promulgating policies and procedures or establishing
8 customs pursuant to which the unlawful conduct occurred; and failing and refusing, with deliberate
9 indifference, to implement adequate training and supervision.

10 **FACTS**

11 19. Rodriguez is a student enrolled at Aptos High, a school within PVUSD. He is a special
12 education student, whose individualized education plan (developed by PVUSD) states that the
13 reasons for his eligibility for special education are visual and auditory memory deficits.

14 20. Rodriguez is not now, nor has he ever been in a gang or affiliated with a gang.

15 21. Rodriguez was identified by Defendants as being a gang member and/or gang affiliated for two
16 primary reasons which are stated in a memo from Defendant Watson to Sgt. Amy Christey.

17 22. Rodriguez, according to the report, "associated with Norteno (sic) gang members/affiliates on
18 campus." This association consisted of "hanging out" near the symbol of the Aptos High Mariners,
19 which is an anchor set in the ground. This symbolic anchor was and is under the complete control
20 of PVUSD. This area is known as "the Anchor." Plaintiffs are informed and believe and so allege
21 that Defendants never have undertaken any steps to advise students that they might be gang-
22 identified if they frequent "the Anchor" or any other area of a PVUSD campus, nor have they taken
23 any steps to disperse the gang activity which they allege takes place there.

24 23. Defendants have pointed to no evidence that Rodriguez associated with any gang members or
25 affiliates off-campus nor have they pointed to any gang-related association that allegedly took place
26 between Rodriguez and anyone who was not a student. All of the conduct which triggered the

1 seizure and detention consisted of Rodriguez attending school with other Aptos High students and
2 allegedly being in a part of the campus, "the Anchor," which the Defendants have kept open to all
3 students including Rodriguez. Much of his so-called association consists of attending class with
4 students who are identified by Defendants as gang members or gang-affiliates. Rodriguez is
5 informed and believes that he must attend classes to which he is assigned even if those classes
6 contain students Defendants say are somehow gang affiliated.

7 24. Defendants claimed that on September 12, 2003 Rodriguez violated that part of PVUSD dress
8 code which deals with "gang-type" attire. That part of the dress code reads as follows:

9 Prohibited on Campus. Gang Style Attire. Gang style clothing may vary from year
10 to year. Prohibited items include hair nets, bandanas, extremely long belts, belt
11 buckles with initials, numbered items (XIII, 13, XIV, 14, etc), or jewelry
12 COMMONLY HELD TO BE RELATED TO A GANG OR GANG ACTIVITY. No
clothing or apparel which intimidates others or provokes others to acts of violence
will be allowed on campus or at any school related activity) District Policy 4508.31
(Emphasis in original)

13 25. Defendants never have claimed that Rodriguez wore any of the specifically identified items in
14 the above dress code. Instead, he was identified as wearing prohibited articles because he wore a
15 white shirt with red trim and a red baseball cap on September 12, 2003. Defendant Watson claims
16 in his report that Rodriguez also frequently wore red and this also identified him as being gang
17 associated. Rodriguez was wearing a shirt that was primarily white when he was detained by
18 Defendants.

19 26. Defendant Watson claims he warned Rodriguez about wearing red clothing, however, he never
20 claims that he warned Rodriguez about the white shirt he was wearing when detained. Rodriguez
21 denies being warned by Watson or any other school employee prior to his illegal detention about
22 his supposed wearing of gang attire.

23 27. Defendant Watson detained Rodriguez on September 12, 2003 based on the so-called indicia
24 of gang association. He compelled Rodriguez to come to his office and hand over personal
25 belongings to Watson for his inspection. Watson caused Rodriguez's picture to be taken. Watson
26 searched Rodriguez's personal belongings. Watson questioned Rodriguez repeatedly about his
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1 | alleged gang association. Rodriguez denied he was associated with any gang and according to
2 | Watson was “respectful and cooperative” but his denials were to no avail. Watson insisted
3 | Rodriguez was a gang associate or member. Watson asked if he knew certain youth and Rodriguez,
4 | having grown up with and/or gone to school with them told him truthfully that he did. Watson
5 | claims that Rodriguez admitted that he did not get along with individuals who were allegedly in
6 | another gang but no such admission took place . Rodriguez claims he was shown photos of other
7 | students Watson identified as gang members and asked if he knew them. Rodriguez knew one from
8 | growing up, but not the other two.

9 | 28. Defendant Watson claims to have found further purported “gang-related” material on
10 | Rodriguez, a notebook which Watson claims has the letter “N” on it twice. However, the binder has
11 | the letter “W, ”not “N” on it.

12 | 29. Defendant Watson recorded information about the detention, seizure, search, and questioning
13 | on a “Sheriff’s Office gang interview card,” commonly referred to as a “gang card,” and submitted
14 | this card to the Sheriff’s office

15 | 30. Defendant Watson warned Rodriguez that, from then on, he had no excuse for wearing gang
16 | style clothing in school and that the gang card documented this and led Rodriguez to believe that
17 | if he wore such apparel he would be subject to further detention or other action. Watson did not
18 | indicate specifically what type of clothing, jewelry or other apparel would be prohibited by the gang
19 | style attire provision of the dress code.

20 | 31. Plaintiffs are informed and believe and so allege that the gang card still is kept and utilized by
21 | the Santa Cruz Sheriff to identify Rodriguez as gang associated.

22 | 32. Plaintiffs are informed and believe and so allege that Defendants have shared with another
23 | agency, Pajaro Valley Prevention and Student Assistance, the information on the gang card and the
24 | photograph and that the information is available internally and to other law enforcement agencies
25 | via the Automated Tiburon Gang Module. Information about the Plaintiff’s detention and his
26 | alleged gang affiliation was released soon after the incident to at least one teacher at Aptos High
27 |
28 |

1 School.

2 33. Plaintiffs are informed and believe and so allege that Defendants use the information on gang
3 cards in the event of an arrest of a person listed on such a card in order to determine where that
4 person will be housed in the Santa Cruz jail. The result is that such persons are placed in a more
5 punitive and restrictive jail setting than if they were not so identified as being "gang-related."

6 34. Plaintiffs are informed and believe and so allege that Defendants now consider that Rodriguez
7 is gang associated and this adversely affects his relationship with the school, teachers and
8 administration. Just as Rodriguez was believed by Defendant Watson to be a gang associate or
9 member because he was seen in the presence of other students who Watson believed to be gang-
10 related, so too will Watson advise others that being friends with Rodriguez can have bad
11 consequences. The gang card prepared concerning Rodriguez, is consistent with and in furtherance
12 of Defendant's policy to reveal the names of alleged gang-related individuals to others and contains
13 the names of other juveniles who are allegedly gang-related.

14 35. Plaintiffs are informed and believe and so allege that Defendants, on more than one occasion,
15 have released information contained upon the gang cards which revealed the names of juveniles
16 thought by Defendants or their employees to be gang-related. This conduct was taken without
17 obtaining a court order authorizing the release of such information.

18 36. Plaintiffs are informed and believe and so allege that Defendants have established a policy
19 and/or practice whereby they cooperatively obtain and maintain an information system on gang cards
20 which they use among themselves and share with other law enforcement and other types of agencies
21 concerning the information in the gang cards, including that of Plaintiff's.

22 37. Plaintiff's grades began to suffer and he was unable to focus in class following his September
23 12, 2003 seizure, detention and identification as a gang member, and the restrictions placed on his
24 associations and conduct on campus. Rodriguez fell seriously behind in his classes and was
25 informed by his counselor and his special education teacher that, in order to graduate this year, he
26 would need to transfer to Renaissance High School, a continuation school in the Pajaro Valley

1 Unified School District. Plaintiff was notified following the transfer, that he would not graduate
2 with his class at Aptos High School. Defendant Watson continued to surveil Rodriguez, until
3 Rodriguez' transfer to Renaissance High School, noting in his report that he continued to see him
4 near the Anchor.

5 38. Rodriguez, although now in attendance in Renaissance High School, still is permitted to attend
6 events at Aptos High School and to be present on campus. He still is subject to the "gang style
7 attire" provisions of the dress code. He still is subject to having adverse conclusions drawn if he
8 walks through or stops at the "Anchor." The false identification has interfered with those places on
9 the Aptos High campus where Rodriguez can go without having a police and school employee
10 surveil and note his presence and draw adverse implications from his being in that spot on the
11 campus. This false identification further puts Rodriguez in peril because it has been shared with
12 third parties. This risks Rodriguez' safety as he might be subject to attacks based on such
13 identification.

14 39. Plaintiffs are informed and believe and so allege that either none or disproportionately few white
15 students who undertake activities or associate with students in ways similar to Rodriguez have been
16 detained, searched, had their property seized and searched, had their photo taken, gang cards
17 prepared and submitted to the Sheriffs' Department, or have been subject to continuing surveillance.

18 40. Plaintiffs are informed and believe and so allege that either none or disproportionately very few
19 white students who wear clothing similar to that worn by Rodriguez have been detained, searched,
20 had their property seized and searched, had their photo taken, gang cards prepared and submitted to
21 the Sheriffs' Department, or have been subject to continuing surveillance.

22 41. Defendants never have expressly prohibited or inhibited in anyway, the presence of any student
23 in or near the Anchor area. They have no written policy, nor have they communicated to the parents
24 or students any policy about this part of their school yard being a place where gangs apparently are
25 given free rein to congregate.

26 42. Plaintiffs are informed and believe and so allege that Defendants have and continue to conduct
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1 the activities of which Plaintiffs complain against other students who attend Aptos High and other
2 schools in PVUSD.

3 43. Defendants' conduct has violated Rodriguez's constitutional and statutory rights as stated below
4 and damaged him in an amount not yet known. Plaintiffs will seek leave to amend this complaint
5 to conform to proof at time of trial. Plaintiffs have suffered and continue to suffer mental and
6 emotional distress, humiliation, embarrassment, discomfort and anxiety. Defendants restricted
7 Plaintiff Rodriguez' freedom, following the initial seizure and detention, to go to some sections of
8 the Aptos High campus and to associate with some students with whom he goes to school and
9 attends class, while not providing him with any option concerning going to classes in which no gang-
10 related students are present at a campus kept free of gang activity by Defendants.

11 44. Defendants' acts were and are wilful, wanton, malicious, oppressive and done with disregard
12 and deliberate indifference to Plaintiff's rights. Defendants' actions, therefore, justify an award of
13 punitive damages in an amount to be determined at trial against those Defendants who have been
14 sued in their personal capacities.

15 45. Defendants' policies, practices, conduct and acts alleged herein have resulted and will continue
16 to result in irreparable injury to Plaintiffs, including but not limited to further violations of
17 constitutional and statutory rights. Plaintiffs have no speedy, adequate or complete remedy to
18 address the wrongs complained of here. Plaintiffs therefore seek injunctive relief restraining
19 Defendants from continuing to engage in and enforce the unconstitutional and illegal practices,
20 policies, conduct and acts complained of here.

21 46. Defendants acted with discriminatory intent in violation of Plaintiffs' constitutional and statutory
22 rights, and have proximately caused Plaintiffs' humiliation, mental pain and suffering. Plaintiffs
23 have been damaged as a direct, proximate and legal result of Defendants violations of Plaintiffs'
24 statutory, constitutional and common law rights, in an amount not yet known.

25 47. Plaintiff Bañuelos has lost wages as a result of Defendants' conduct and has had to change her
26 schedule in order to transport Rodriguez to the continuation school as a result of Defendants'

1 | conduct. The Renaissance continuation school is not required to and does not provide a full 240
2 | minute school day and has far fewer resources and a lower academic performance rating than Aptos
3 | High and, Plaintiffs are informed and believe and so allege, is much more likely to have gang
4 | members and gang associated students attending than Aptos High.

5 | 48. Defendants, at all times mentioned in this complaint, had obligations to comply with federal and
6 | state law and regulations regarding illegal discrimination. Defendants failed to meet those
7 | obligations.

8 | 49. Defendants, in their various personal and official capacities acting under color of law, instituted,
9 | authorized, tolerated, ratified, permitted and acquiesced in policies, practices and customs of
10 | detentions, searches and seizures, interrogations, surveillance, photographing, creating gang cards,
11 | maintaining gang cards and communicating the contents of gang cards with other agencies. They
12 | have done so with no legal cause. Defendants continue these practices with respect to Rodriguez
13 | and, Plaintiffs are informed and believe and so allege, other students enrolled in the PVUSD..

14 | 50. Defendants have acted with deliberate indifference to the rights of Plaintiffs.

15 | First Claim for Relief
16 | Unlawful Search and Seizure
17 | Infringement of Fourth and Fourteenth Amendment Rights
18 | Violation of 42 U.S.C. § 1983
19 | (Against all Defendants)

20 | 51. Plaintiff Rodriguez repeats and re-alleges all of the above paragraphs.

21 | 52. Defendants, acting under color of law, and in concert with each other, have violated and
22 | continue to violate Plaintiff's rights to be free from unreasonable searches and seizures under the
23 | Fourth and Fourteenth Amendments to the United States Constitution. Defendants, specifically,
24 | subjected and threaten to further subject Plaintiff to illegal detentions, interrogations, searches and
25 | seizures, surveillance, photographing, and inclusion in a gang identification system without any
26 | legally sufficient cause to believe that Plaintiff had committed any crime, violated any legal school
27 | rule, or otherwise engaged in any wrongful activity.

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Second Claim for Relief
Impermissible Infringement of Liberty Interests
Violation of 42 U.S.C. § 1983
(Against all Defendants)

53. Plaintiffs repeat and re-allege all of the above paragraphs.

54. Defendants have caused a policy to be placed into effect and have enforced the policy which makes it impermissible for Rodriguez to congregate in or pass through an area of the Aptos High campus which is open to students, "the Anchor area." Defendants, by so doing and acting under color of law and in concert with each other, have violated and continue to violate Plaintiff's rights to liberty as guaranteed by the Fourteenth Amendment to the United States Constitution.

55. Plaintiff Rodriguez has a liberty interest in wearing the clothing of his choice, subject only to the constitutional regulations of the district. Defendants have caused a policy to be placed into effect and have enforced an unconstitutional policy which makes it impermissible for Rodriguez and other students to wear certain, vaguely defined attire. Defendants, by so doing and acting under color of law and in concert with each other, have violated and continue to violate Plaintiff's rights to liberty as guaranteed by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

Third Claim for Relief
Arbitrary and Capriciousness - Vagueness and Over Breadth
Violation of 42 U.S.C. § 1983
(Against all Defendants)

56. Plaintiffs repeat and re-allege all the above paragraphs.

57. The gang attire provisions of PVUSD's dress code are unconstitutionally vague. They also are over broad and sweep into their prohibitions conduct which is constitutionally protected, including but not limited to the constitutionally protected liberty and associational interests alleged in this complaint.

58. Defendants, in enacting and enforcing this unconstitutionally vague dress code and in utilizing it as a determinative factor in their gang-related identification process, have been and are acting under color of law, in concert with each other, and have violated and continue to violate Plaintiffs'

1 | rights under the United States Constitution, enforceable under 42 U.S.C. § 1983.

2 | 59. Defendants' conduct grants absolute and arbitrary discretion to Defendant Watson and other
3 | employees to decide where and when Rodriguez and other students are violating school policy and
4 | are gang associated. This violates Rodriguez' rights under the Fourteenth Amendment of the
5 | United States Constitution enforceable under 42 U.S.C. § 1983.

6 | Fourth Claim for Relief
7 | Infringement of Due Process Rights
8 | Arbitrary and Capriciousness – Vagueness and Over Breadth
9 | Violation of 42 U.S.C. §1983
10 | (Against all Defendants)

11 | 60. Plaintiffs repeat and re-allege all the above paragraphs.

12 | 61. Defendants provide no means to clear Rodriguez of the charge of being gang-related or from
13 | the adverse consequences of this false identification They provided Rodriguez with no meaningful
14 | way to challenge the false identification or to provide information which would have countered the
15 | factors upon which the false identification were made.

16 | 62. Defendants' conduct violates Rodriguez' rights to due process guaranteed to him under the
17 | Fourteenth Amendment of the United States constitution, enforceable under 42 U.S.C. §1983.

18 | Fifth Claim for Relief
19 | Infringement of First Amendment Associational Rights
20 | Violation of 42 U.S.C. § 1983
21 | (Against all Defendants)

22 | 63. Plaintiffs repeat and re-allege all the above paragraphs.

23 | 64. Plaintiff Rodriguez has rights under the First Amendment to attend class, have friendships, and
24 | congregate with other students in a lawful manner. Rodriguez has done so, being in the same class,
25 | having relationships with students that date back to when they were young children, and being in
26 | physical proximity to them while in or near "the Anchor." Defendants, acting under color of law
27 | and in concert with each other, have instituted and enforced policies which make it impermissible
28 | for Rodriguez to exercise these rights. Defendants, in so doing, have violated and continue to violate
Rodriguez' rights under the First Amendment of the United States Constitution and 42 U.S.C.

1 | §1983.

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3 | Sixth Claim for Relief
4 | Discrimination on Account of Race, National Origin and Ancestry
5 | Violation of the 14th Amendment and 42 U.S.C. § 1983
6 | (Against all Defendants)

7 | 65. Plaintiffs repeat and re-allege all the above paragraphs.

8 | 66. Plaintiff is informed and believes and so alleges that Defendants' conduct, as described in this
9 | complaint, was taken because of his race, ancestry, and national origin and because he associated
10 | with persons of Latino or Hispanic ancestry and national origin.

11 | 67. Defendants have violated and continue to violate Plaintiff's right to be free of discrimination
12 | based on race, national origin, and ancestry as guaranteed by the 14th Amendment of the United
13 | States Constitution and 42 U.S.C. § 1983.

14 | Seventh Cause of Action
15 | Discrimination on Account of Race, National Origin and Ancestry
16 | Violation of Article 1, Section 7, of the California Constitution
17 | (Against all Defendants)

18 | 68. Plaintiffs repeat and re-allege all the above paragraphs.

19 | 69. Plaintiff are informed and believe and so allege that Defendants' conduct, as described in this
20 | complaint, was taken because of his race, ancestry, and national origin and because Rodriguez
21 | associated with persons of Latino or Hispanic ancestry and national origin.

22 | 70. Defendants have violated and continue to violate Plaintiff's right to be free of discrimination
23 | based on race, national origin, and ancestry as guaranteed by Article 1, Section 7, of the California
24 | Constitution.

25 | Eighth Claim for Relief
26 | Right to Informational Privacy
27 | Violation of Article 1, Section 1, of the California Constitution
28 | (Against all Defendants)

1 71. Plaintiff Rodriguez repeats and re-alleges all the above paragraphs.

2 72. Defendants, acting in concert with each other and acting pursuant to policies of the Sheriff's
3 office and PVUSD, interrogated and photographed Plaintiff. They recorded, transmitted, stored
4 maintained, and retained custody of the information gathered. They surveilled and continue to
5 surveil Plaintiff and recorded and continue to record information about the surveillance which they
6 maintain, store, transmit and of which they retain custody .

7 73. Defendants' obtained that information through unlawful means as alleged in this complaint.
8 They know or should have know that such information is, in pertinent part, false and inaccurate.

9 74. Defendants, by this conduct, have violated and continue to violate Plaintiffs' right to privacy
10 under Article 1, Section 1 of the California Constitution.

11
12 Ninth Claim for Relief
13 Unlawful Search and Seizure
14 Violation of Article 1, Section 13 of the California Constitution.
(Against all Defendants)

15 75. Plaintiff Rodriguez repeats and re-alleges all the above paragraphs.

16 76. Defendants, acting under color of law, and in concert with each other, have violated and
17 continue to violate Rodriguez' rights to be free from unreasonable searches and seizures.
18 Defendants, specifically, subjected and threaten to further subject Rodriguez to illegal detentions,
19 interrogations, searches and seizures, surveillance, photographing, and inclusion in a gang
20 identification system without any legally sufficient cause that Rodriguez had committed any crime,
21 violated any legal school rule, or otherwise engaged in any wrongful activity.

22 77. Defendants' conduct violates the guarantees against unreasonable searches and seizure or
23 Article 1, Section 13 of the California Constitution.

24
25 Tenth Claim for Relief
26 Violation of California Civil Code § 52.1(b)
(Against all Defendants)

1 78. Plaintiff Rodriguez repeats and re-alleges all the above paragraphs.

2 79. Defendants threatened, intimidated and coerced Rodriguez in a manner that has interfered and
3 continues to interfere with his exercise and enjoyments of rights secured by the Constitution and
4 laws of the United States and of the State of California in violation of California Civil Code § 52.1.

5 Eleventh Claim for Relief
6 False Imprisonment
(Against all Defendants)

7 80. Plaintiff Rodriguez repeats and re-alleges all the above paragraphs.

8 81. Defendants intended to confine and confined Plaintiff Rodriguez while they illegally detained
9 him.

10 82. Rodriguez was conscious of such confinement and the confinement was not privileged.

11 83. Defendants' conduct proximately and legally caused Rodriguez humiliation, mental pain,
12 suffering and emotional distress.

13 84. These actions constitute false imprisonment under the laws of that State of California.

14 Twelfth Claim for Relief
15 Intentional Infliction of Emotional Distress
(Against all Defendants)

16 85. Plaintiff Rodriguez repeats and re-alleges all the above paragraphs.

17 86. Defendants, during the detention, search, seizure, interrogation and surveillances of Rodriguez
18 and in their conduct in impermissibly infringing upon the rights of Rodriguez through their
19 enforcement of District policies concerning dress and the "Anchor," intentionally and purposefully
20 acted in a manner to harass, intimidate, and frighten Plaintiff in order to cause him to submit to the
21 will of Defendants, which they knew was likely to cause injury.

22 87. Plaintiffs are informed and believe and so allege that Defendants acted in such a manner
23 because they knew their conduct was unjustified and in violation of the rights of Plaintiffs and
24 Defendants were anxious that Rodriguez not assert his rights in a manner that would cause other
25 students to also assert their rights thereupon requiring Defendants to desist. Defendants continue
26 to conduct themselves in the same illegal manner toward Rodriguez and other students.

1 88. Rodriguez, as a result of this conduct by Defendants, is in a state of apprehension, stress and fear
2 that if he does (1) associate with friends, fellow students on campus or school activities, (2) wear
3 clothing that defendants or someone under their control will find to allegedly violate District policy;
4 (3) walk through or in any manner be present in "the Anchor area", he will be subject to further
5 detentions, interrogations, searches and seizures, and surveillance. Defendant Watson already has
6 noted in his report that Rodriguez continues to be seen in "the Anchor area" and to wear clothing that
7 Defendant Watson interprets as violating the dress code.

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Thirteenth Claim for Relief
Negligent Infliction of Emotional Distress
(Against all Defendants)

89. Plaintiff Rodriguez repeats and re-alleges all the above paragraphs.

90. Defendants, at all times mentioned, knew, or in the exercise of due diligence should have known, that their conduct would and did violate rights guaranteed to Rodriguez under the laws and constitutions of the United States and the State of California that would cause injury to Rodriguez.

91. Defendants' conduct was of such a nature that a reasonable person in Rodriguez' position would sustain serious emotional distress as a result of the conduct. Rodriguez incurred great mental, nervous and emotional pain and suffering in an amount and duration to be proved at trial.

Fourteenth Claim for Relief
Violation of California Government Code §§ 11135 *et seq.*
(Against Defendants PVUSD and Santa Cruz Sheriff's Office)²

92. Plaintiffs repeat and re-allege all the above paragraphs.

93. Defendants, at all relevant times, have been recipients of state financial assistance.

94. Plaintiffs are informed and believe and so allege that Defendants' conduct was undertaken with the intent and has had the effect of discriminating against Plaintiffs because of their ethnic group identification, or color.

95. Defendants conduct, as alleged above, violates Plaintiff's right to be free from discrimination

1 on account of ethnic group identification, or color.

2 Fifteenth Claim for Relief
3 Writ of Mandate Cal. Code of Civ. Proc. § 1085,
4 (Against Defendants PVUSD, School Board Members,
5 Santa Cruz Sheriff's Office, and Sheriff Tracy)

6 96. Plaintiffs repeat and re-allege all the above paragraphs.

7 97. Plaintiffs are entitled to a writ of mandate under California Code of Civil Procedure § 1085 in
8 that Defendants have a clear, present, and ministerial duty to obey the constitution and laws of the
9 United States and the State of California.

10 98. Defendants have a clear and present ministerial duty to adopt and promulgate rules and policies
11 and to have in place policies and customs that are consistent with the constitution and laws of the
12 United States and the State of California and to ensure that only such lawful rules, policies, and
13 customs are enforced by them and those under their control.

14 99. Defendants have abused their discretion and acted in an arbitrary and discriminatory manner
15 by adopting and enforcing policies, procedures, and customs that are inconsistent with state and
16 federal laws and constitutions, as alleged in this complaint.

17 100. Defendants actions of unlawful discrimination also constitute an abuse of discretion in that
18 they violate Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and its
19 implementing regulations, because such discrimination has an unlawful disparate impact on the
20 Plaintiffs on the basis of national origin. These Defendants are recipients of federal financial
21 assistance as defined by that statute and those regulations.

22 101. Plaintiffs have no administrative remedy available to them to resolve this controversy.

23 102. Plaintiffs have no plain, speedy, or adequate remedy at law other than the relief requested in
24 this petition.

25 103 . Plaintiffs have a beneficial interest in the performance by Defendants of their duties to
26 promulgate and enforce policies, procedures and customs in accordance with the requirements of
27 state and federal laws.

1 | 104. Plaintiffs' success in this action will result in the enforcement of important rights affecting
2 | the public interest by conferring significant benefits on a large class of persons. Plaintiffs seek
3 | enforcement of rights not only for themselves but also for students enrolled in all the schools of
4 | PVUSD and all students in the areas where the Sheriff's office provides law enforcement and for the
5 | parents of those students.

6 | 105. Furthermore, private enforcement of these rights is necessary as no other agency has pursued
7 | these rights.

8 | Sixteenth Claim for Relief
9 | Declaratory Relief
10 | (Against all Defendants)

10 | 106. Plaintiffs repeat and re-allege all the above paragraphs.

11 | 107. There exists an actual, present and justiciable controversy between Plaintiffs and Defendants
12 | concerning their rights and duties with respect to Defendants' conduct complained of here. Plaintiffs
13 | contend that Defendants violated and continue to violate their rights under the constitutions and laws
14 | of the United States and the State of California. Plaintiffs are informed and believe and so allege
15 | that Defendants deny this. Plaintiffs fear that they will again be subject to the unlawful and
16 | unconstitutional conduct of Defendants and seeks a judicial declaration that Defendants' conduct
17 | deprives Plaintiffs of their rights under the constitutions and laws of the United States and the State
18 | of California.

19 | 108. This controversy is ripe for judicial decision and declaratory relief is necessary and appropriate
20 | so that the parties may know the legal obligations that govern their present and future conduct.

21 | WHEREFORE. Plaintiffs ask that the Court:

- 22 | 1. Assume jurisdiction, including supplementary jurisdiction of the state law claims, in this case.
- 23 | 2. Issue a declaratory judgment that Defendants' conduct violated and violates Plaintiffs' rights
24 | under the laws and constitutions of the United States and the State of California.
- 25 | 3. Issue injunctive relief and a writ of mandate prohibiting defendants from :

26 | (A) enforcing the gang style attire section of their dress code as currently written and
27 |

1 adopted; taking any actions against students based on presence near the Anchor; taking any actions
2 against students for associating with other students in a lawful manner;

3 (B) Continuing to maintain in any manner any information related to Plaintiff Rodriguez on
4 a gang card or other law enforcement information system and requiring Defendants to correct the
5 false information transmitted to any third party concerning Plaintiff;

6 (C) Detaining, interrogating surveiling, searching or seizing Plaintiff Rodriguez or any other
7 student without legal cause;

8 (D) Enforcing any dress code provision which does not adequately and clearly describe the
9 type of clothing that is being regulated;

10 (E) Interfering with the right of Plaintiff Rodriguez or other students from associating in a
11 lawful manner with other students or being present at the Anchor in a lawful manner;

12 4. Award compensatory, general, exemplary damages to be proven at trial against PVUSD, the
13 Sheriff's Office, and those defendants sued in their personal or individual capacities.

14 5. Award statutory damages and penalties pursuant to Cal. Civ. Code §§ 52 and 52.1(b).

15 6. Award Plaintiffs such reasonable attorney fees to the office of Youth Law Center for the
16 prosecution of this suit.

17 7. Award Plaintiffs costs and expenses.

18 8. Award such other relief as the Court may deem proper and just.

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20 Dated:

21 Gretchen Regenhardt
22 CALIFORNIA RURAL LEGAL ASSISTANCE, INC.
23 Attorneys for Plaintiffs
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