

## Other Complaint Filings

[8:23-cv-00306-DOC-ADS B.B. et al v. Capistrano Unified School District et al](#)

ACCO,  
(ADSx),DISCOVERY,MANADR

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

### Notice of Electronic Filing

The following transaction was entered by Haberbusch, Alexander on 9/8/2023 at 10:36 PM PDT and filed on 9/8/2023

**Case Name:** B.B. et al v. Capistrano Unified School District et al

**Case Number:** [8:23-cv-00306-DOC-ADS](#)

**Filer:** B. B.  
Chelsea Boyle

**Document Number:** [36](#)

#### Docket Text:

**Second AMENDED COMPLAINT against Defendants All Defendants amending Amended Complaint/Petition, [18] JURY DEMAND, filed by Plaintiffs B. B., Chelsea Boyle (Attachments: # (1) Exhibit A, # (2) Exhibit B, # (3) Exhibit C, # (4) Certificate of Service)(Haberbusch, Alexander)**

#### 8:23-cv-00306-DOC-ADS Notice has been electronically mailed to:

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#### 8:23-cv-00306-DOC-ADS Notice has been delivered by First Class U. S. Mail or by other means **BY THE FILER** to :

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**C:\fakepath\2ND.AMENDD.COMPLAINT.(COURT).pdf

**Electronic document Stamp:**

[STAMP cacdStamp\_ID=1020290914 [Date=9/8/2023] [FileNumber=36511036-0]  
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**Document description:**Exhibit A

**Original filename:**C:\fakepath\EXHIBIT.A.pdf

**Electronic document Stamp:**

[STAMP cacdStamp\_ID=1020290914 [Date=9/8/2023] [FileNumber=36511036-1]

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**Document description:**Exhibit B

**Original filename:**C:\fakepath\EXHIBIT.B.pdf

**Electronic document Stamp:**

[STAMP cacdStamp\_ID=1020290914 [Date=9/8/2023] [FileNumber=36511036-2]

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73c355eea992107d5fec8a2c92622bdfe35c86703e010094f386f7d916fc]]

**Document description:**Exhibit C

**Original filename:**C:\fakepath\EXHIBIT.C.pdf

**Electronic document Stamp:**

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**Document description:** Certificate of Service

**Original filename:**C:\fakepath\CERTIFICATE.OF.SERVICE.pdf

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16 **UNITED STATES DISTRICT COURT**  
17 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

18 B.B., a minor by and through her  
19 mother, Chelsea Boyle and Chelsea  
20 Boyle, as an individual,

21 Plaintiffs,

22 v.

23 CAPISTRANO UNIFIED SCHOOL  
24 DISTRICT; JESUS BECERRA, an  
25 individual in his individual and official  
26 capacities; CLEO VICTA, an  
27 individual in her individual and official  
28 capacities; and DOES 1 through 50,  
inclusive,

Defendants.

CASE NO. 8:23-cv-00306-DOC-ADS

*Assigned for All Purposes to:  
Hon. David O. Carter – Courtroom 10A*

**SECOND AMENDED COMPLAINT  
FOR**

**1) VIOLATION OF B.B.'S FIRST  
AMENDMENT RIGHTS (42 U.S.C. §  
1983)**

**2) VIOLATION OF B.B.'S  
FOURTEENTH AMENDMENT  
RIGHTS TO DUE PROCESS (42  
U.S.C. § 1983)**

**3) INTENTIONAL INFLICTION  
OF EMOTIONAL DISTRESS**

**4) NEGLIGENT HIRING,  
SUPERVISION AND/OR  
RETENTION OF EMPLOYEE**

**5) RETALIATORY  
HARASSMENT (42 U.S.C. § 1983)**

**6) DELIBERATE  
INDIFFERENCE**

1 COMES NOW B.B., a minor by and through her mother, Chelsea  
2 Boyle (“B.B.”) and Chelsea Boyle, as an individual (collectively, “Plaintiffs”), for  
3 causes of action against Defendants Capistrano Unified School District (“CUSD”);  
4 Jesus Becerra (“Becerra”), an individual, in his individual and official capacities;  
5 Cleo Victa (“Victa”), an individual, in her individual and official capacities; and  
6 DOES 1 through 50, inclusive (collectively, “Defendants”). Plaintiffs allege as  
7 follows:

8 **JURISDICTION AND VENUE**

9 1. This action arises under the laws of the United States and the State of  
10 California.

11 2. This Court has subject matter jurisdiction over the federal claims  
12 presented herein pursuant to 28 U.S.C. §§ 1331 and 1343, as they arise under the  
13 Constitution and laws of the United States.

14 3. Supplemental jurisdiction over the state law claims is conferred by 28  
15 U.S.C. § 1367, as these state law claims are so related to the federal claims that they  
16 form part of the same case or controversy and derive from a common nucleus of  
17 operative facts.

18 4. Venue is proper in this district under 28 U.S.C. § 1391(b) because a  
19 substantial part of the events giving rise to this claim occurred in this district.

20 **PARTIES**

21 5. Plaintiff B.B. is a minor and the daughter of Boyle and Darren Boyle.  
22 At all times relevant herein, B.B. was a resident of the State of California in the  
23 County of Orange.

24 6. Plaintiff Boyle is the mother of B.B. At the time of the events alleged  
25 herein, Chelsea Boyle was a resident of the State of California in the County of  
26 Orange.

27 7. Defendant CUSD is a public school district located in the State of  
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1 California in the County of Orange.

2 8. Defendant Becerra is and was, at all times relevant herein, an employee  
3 of CUSD and is and was, at all times relevant herein, the principal of Viejo  
4 Elementary School (hereinafter “Viejo”), an elementary school within CUSD.  
5 Plaintiff is informed, believes, and, on that basis alleges that Becerra resides in the  
6 State of California in the County of Orange.

7 9. Defendant Victa is, and was at all times relevant herein, an employee of  
8 CUSD and a counselor at Viejo. Plaintiff is informed, believes, and, on that basis  
9 alleges that Victa resides in the State of California in the County of Orange.

10 **FACTUAL ALLEGATIONS**

11 **(CUSD District Policies)**

12 10. CUSD is a public school system and the governmental body  
13 responsible for operating public schools within its district, including Viejo and San  
14 Juan Elementary School. CUSD’s offices are located at 33122 Valle Rd., San Juan  
15 Capistrano, CA 92675.

16 11. According to its website, the mission of the CUSD is to prepare  
17 “students to meet the challenges of a rapidly changing world.”

18 12. Plaintiffs are informed, believe, and, on that basis allege that CUSD –  
19 through the Board of Trustees – has adopted a series of policies governing staff and  
20 student behavior on campus.

21 13. In addition, CUSD publishes a disciplinary policies and procedures  
22 manual for each level of education (e.g., elementary, middle, and high school).

23 14. CUSD School Board Policy 5140(a) mandates that “the District shall  
24 encourage attitudes and behaviors that promote mutual respect and harmonious  
25 relations.” This policy further mandates that “The District shall provide instruction  
26 and counseling designed to promote positive racial and ethnic identity, help students  
27 understand diverse cultures, teach them to think critically about racial bias, and  
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1 show them how to deal with discriminatory behavior in appropriate ways.”

2 15. CUSD School Board policy 5141(a) provides that “[s]tudents are  
3 expected to exhibit appropriate conduct that does not infringe upon the rights of  
4 others or interfere with the school program while on school grounds, going to or  
5 coming from school, at school activities, or using District transportation.”

6 16. Prohibited student conduct under CUSD School Board Policy 5141(a)  
7 includes, but is not limited to “[c]onduct that disrupts the orderly classroom or  
8 school environment.” It provides that “[s]tudents who violate District or school rules  
9 and regulations may be subject to discipline including, but not limited to,  
10 suspension, expulsion, transfer to alternative programs, referral to a student success  
11 team or counseling services, or denial of participation in extracurricular or  
12 cocurricular activities or other privileges in accordance with Board policy and  
13 administrative regulation. The Superintendent or designee shall notify local law  
14 enforcement as appropriate.”

15 17. The CUSD disciplinary policies and procedures manual for elementary  
16 school students sets forth a list of “infractions” that includes but is not limited to  
17 “general misconduct.”

18 18. CUSD maintains on its website that it does not teach critical race  
19 theory (“CRT”). Nonetheless, during the time of the events herein alleged, CUSD  
20 adopted and utilized the “No Place for Hate” (“NPFH”) program (published by the  
21 Anti-Defamation League), which is substantively equivalent to CRT. Despite its  
22 representations to the contrary, CUSD had a custom, policy, or practice of teaching  
23 CRT. This custom, policy, or practice extended to faculty training and student  
24 discipline.

25 19. CUSD’s policies and procedures serve as the basis for discipline but are  
26 written so vaguely and broadly that students and parents receive inadequate notice  
27 of what conduct may result in an offense.

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**(The Drawing)**

20. From on or about August 2018, through on or about June 2022, B.B. was a student at Viejo Elementary School.

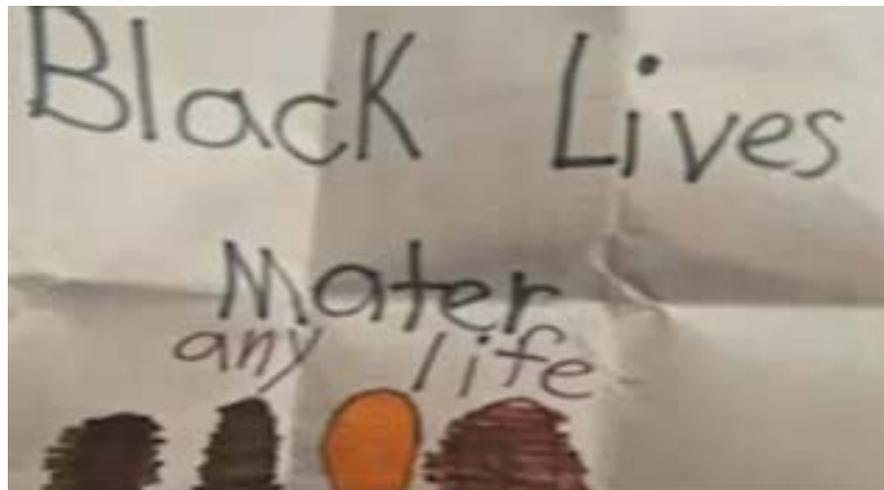
21. From on or about September 2022, through on or about January 2023, B.B. was a student at San Juan Elementary School.

22. At all times relevant herein, B.B. was an elementary school student at schools within CUSD.

23. B.B. suffers from Attention Deficit Hyperactivity Disorder (hereinafter "ADHD") and art is her primary therapeutic outlet for this disorder. Because of this, she regularly draws pictures at school.

24. On or about September 6, 2020, B.B.'s mother, Boyle, wrote and sent an email to Becerra requesting that B.B. not receive instruction relating to the concept of CRT or the political movements associated with CRT.

25. On or about March 2021, while at school, B.B. drew a picture (the "Drawing") depicting individuals of various races getting along, with the words "Black Lives Mater [sic]" and "Any Life" written below. B.B.'s intent was to show children of various races getting along. She drew the Drawing because she had a diverse set of friends. A true and correct copy of the Drawing is included hereinbelow.



1           26. One of B.B.'s classmates took the Drawing home, and, on information  
2 and belief, while at her own home and not on school grounds, the classmate showed  
3 the Drawing to the classmate's parents who took issue with the Drawing. They  
4 subsequently presented their concerns about the Drawing to Becerra.

5           27. On or about March 31, 2021, Becerra confronted B.B. about the  
6 Drawing and reprimanded her by calling the drawing “inappropriate.” Becerra then  
7 demanded B.B. apologize for the Drawing.

8           28. On information and belief, Becerra further “benched” B.B. as a result  
9 of the Drawing, meaning B.B. was told she could not play at recess for the next two  
10 weeks.

11           29. B.B. suffered severe emotional distress, humiliation, and ostracization  
12 as a result of the compelled apology and benching.

13           30. As a result of the incident, B.B. felt ashamed and confused for the way  
14 she was treated by Becerra and other Viejo staff.

15           31. B.B. did not inform either Darren Boyle or Boyle about the incident  
16 surrounding the Drawing, out of fear she would be punished a second time at home.

17           32. Boyle was not informed of the incident until over eleven (11) months  
18 after it had occurred, on or about March 8, 2022, when a friend and parent of  
19 another student at B.B.’s school mentioned it.

20           33. Boyle brought this incident surrounding the Drawing to the attention of  
21 Becerra, via email, and he told her in reply that the incident had never occurred.

22           34. However, after filing a formal complaint with CUSD, Becerra  
23 backtracked his initial response and stated that he had informed Boyle about her  
24 daughter’s drawing but that no disciplinary action had taken place.

25           35. Upon information and belief, CUSD did not adequately train its  
26 employees, including Becerra and Victa, on its school board policies, particularly  
27 those policies relating to treatment of students who do not share employees’ political  
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1 ideologies.

2 36. Upon information and belief, CUSD did not adequately train its  
3 employees, including Becerra and Victa, how to appropriately interact with students  
4 on matters of a politically volatile nature, how to properly identify and address  
5 subjects of reprimand, or to ensure that disciplinary actions do not aggravate  
6 students' existing disabilities or impede their ability to cope.

7 **(The CUSD Complaint)**

8 37. CUSD responded to Boyle by opening a Level I investigation into the  
9 incident surrounding the Drawing.

10 38. However, CUSD appointed Becerra to investigate the complaint,  
11 despite the claim being against Becerra. In his report of his findings (the "Level I  
12 Response"), he concluded, *intra alia*, that B.B. had not been reprimanded. A true  
13 and correct copy of the Level I Response is attached hereto and incorporated  
14 herewith as Exhibit "A." There is no indication in the Level I Response that CUSD  
15 conducted any interviews of further investigation into what had taken place.

16 39. On or about March 15, 2022, Boyle escalated the complaint to Level II.

17 40. During the Level II review process, CUSD staff, namely Pati Romo,  
18 falsely and knowingly attributed statements to Boyle that she did not make and  
19 failed to consider critical evidence regarding the Drawing incident. CUSD did not  
20 take into account critical facts pertaining to the initial comments made by Becerra to  
21 Boyle. CUSD even went so far as to change the words Boyle spoke/wrote in the  
22 findings of the investigation.

23 41. In its Level II Response, CUSD failed to address the underlying cause  
24 of Boyle's complaint and instead repeated numerous statements from her private  
25 text messages, out of context, in an attempt to discredit her, rather than solve the  
26 actual concern – determining what had occurred with the Drawing and the extent of  
27 harm done to B.B. as a result of CUSD's punitive measures. A true and correct copy  
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1 of which is attached hereto and incorporated herewith as Exhibit “B.” There is no  
2 indication that CUSD conducted any interviews or other substantial steps to  
3 determine what had occurred, as part of the Level II investigation.

4 42. Boyle subsequently appealed her claim to Level III and had an in-  
5 person meeting with Supervisor Cary Johnson in early April 2022. Until this time,  
6 Boyle did not have a copy of the Drawing. During this meeting, Boyle took a picture  
7 of the Drawing on her phone.

8 43. CUSD ultimately rejected the appeal but acknowledged that it had  
9 improperly appointed Becerra to investigate himself. A true and correct copy of the  
10 Level III response is attached hereto and incorporated herewith as Exhibit “C.”  
11 There is no indication that any witnesses were interviewed or any other substantial  
12 steps taken as a part of the Level III investigation.

13 44. On information and belief, CUSD’s actions with respect to its internal  
14 complaint process are consistent with its custom, policy, or practice of inadequately  
15 addressing grievances, allowing individuals named in complaints to investigate  
16 themselves, and using selective information without context to potentially discredit  
17 complainants with whom they disagree.

18 **(The Retaliation)**

19 45. On or about the second school day of the fall semester, 2022, B.B.  
20 wrote a letter to Becerra asking him to treat her mother better.

21 46. As a result of Boyle’s use of the internal complaint process and various  
22 other assertions of B.B.’s legal rights, on information and belief, gossip began to  
23 spread regarding Boyle and her family in and among the faculty and staff of CUSD.

24 47. As a result of the ongoing gossip, during the first few weeks of the  
25 2022 fall semester at Viejo, B.B. experienced bullying and harassment from other  
26 students and faculty at CUSD. Despite being notified of the bullying and harassment  
27 experienced by B.B., CUSD did nothing to address the issue. In fact, one of the  
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1 students who bullied B.B. was the child of a faculty member who, on information  
2 and belief, had received and/or participated in gossip regarding B.B.

3 48. As time progressed and the bullying and harassment continued  
4 unaddressed, B.B. experienced extreme stress and anxiety.

5 49. On information and belief, Defendant Victa had received and/or  
6 participated in gossip regarding Boyle, K.B. (B.B.'s brother, who was also then a  
7 student at Viejo), and B.B. and had developed the belief that Boyle was "mentally  
8 unstable." As a result of this belief, Plaintiffs are informed, believe, and on that  
9 basis, allege that Victa began to give special attention to B.B. and her brother  
10 without their knowledge or consent and without the knowledge or consent of Boyle.

11 50. When Boyle became aware of this special attention and was further  
12 informed that Victa had made and/or participated in various defamatory statements  
13 regarding Boyle during a meeting amongst CUSD staff, Boyle, by and through her  
14 counsel, sent Victa a cease-and-desist notice.

15 51. Unwanted and harassing conduct from Victa directed toward B.B.  
16 nevertheless continued and worsened, shortly thereafter.

17 52. On or about August 23, 2022, upon noticing a situation involving her  
18 brother, who was being aggressively followed by Victa as he tried to escape while  
19 crying hysterically, B.B. went over to her brother to comfort him on the school  
20 playground. Both Victa and Becerra were present.

21 53. When B.B. and her brother tried to leave, Victa began to follow B.B.  
22 and her brother around the concrete playground. To escape Victa's uncomfortable  
23 pursuit, B.B. and her brother hid in a hallway. B.B. asked Victa to leave them alone.  
24 Meanwhile, Becerra stood by and said nothing.

25 54. After realizing Victa was not going to listen and give her space, B.B.  
26 ran into the nearest bathroom to call her mother on her Apple Watch. However,  
27 Victa followed B.B. into the bathroom, standing in the doorway, blocking her exit.  
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1           55. B.B. experienced significant stress, anxiety, and mental anguish as a  
2 result of this interaction.

3           56. Because of Victa and Becerra’s actions on August 23, 2022, Plaintiff  
4 B.B. experienced shock, severe anxiety, humiliation, and shame. These actions were  
5 objectively outrageous and constitute bullying and harassment in violation of school  
6 policies.

7           57. Additionally, the actions of Victa and Becerra on or about August 23,  
8 2022, were done in retaliation for B.B.’s and Boyle’s complaints against CUSD and  
9 Becerra.

10           58. Lastly, the actions of Victa and Becerra caused B.B. and her brother to  
11 disenroll from Viejo.

12           59. It is apparent from the consistent pattern of behavior exhibited by  
13 CUSD staff, including but not limited to Victa and Becerra, that CUSD maintains,  
14 either explicitly or implicitly, a policy, custom, or practice of neglecting to properly  
15 train, supervise, and direct its staff members in the appropriate and professional  
16 handling of parental and student complaints. This includes a failure to uphold  
17 standards of confidentiality, refrain from engaging in or propagating gossip, and  
18 provide a safe and respectful environment free from bullying, harassment, and  
19 retaliation. CUSD’s systematic neglect to intervene, even after being made aware of  
20 such inappropriate behavior and breaches, showcases a deep-rooted custom of  
21 indifference and neglect towards the well-being and rights of its students and their  
22 families. This pervasive neglect not only jeopardizes the physical and emotional  
23 safety of students like B.B. but also stifles the trust and respect inherent in the  
24 student-school relationship. Such a custom or practice, whether formally adopted or  
25 informally tolerated, creates an environment conducive to violations of students' and  
26 parents' rights, leading to the unnecessary distress, humiliation, and educational  
27 disruption experienced by the Plaintiffs.

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**(The Claim for Damages)**

60. On or about July 13, 2022, Boyle, presented a claim for damages to CUSD on behalf of B.B. for the incident in which B.B. was compelled to apologize for her Drawing.

61. On or about October 24, 2022, Boyle, received CUSD’s response to Plaintiffs’ claim for damages. The response denied the claim and informed Plaintiffs of the six-month deadline for filing an action in court.

**FIRST CLAIM FOR RELIEF**  
**Violation Of B.B.'S First Amendment Rights (42 U.S.C. § 1983)**  
**(B.B. Against Becerra and CUSD)**

62. Plaintiffs re-allege and incorporate by reference the allegations in paragraphs 10-36, 38, 43, 44, 59, as if fully set forth herein.

63. CUSD is a local government entity.

64. At all times relevant to the allegations in this Complaint, CUSD and Becerra acted under the color of state law.

65. At all times relevant to the allegations in this Complaint, B.B. had a federally protected right and privilege to be free from deprivation of her freedom of speech, expression, and association under the First Amendment to the United States Constitution as incorporated and applicable to the state by the Fourteenth Amendment to the United States Constitution.

66. At all times relevant to the allegations in this Complaint, B.B. had a constitutionally protected and clearly established right to express herself during school and not be disciplined for such speech where the exercise of such right does not materially and substantially interfere with the requirements of appropriate discipline in the operation of the school.

67. B.B. had a constitutionally protected and clearly established right to express herself during school without discipline, provided her speech did not

1 materially and substantially interfere with the school’s operation. The longstanding  
2 principle forbids schools from censoring speech based on its content unless the  
3 speech is threatening or significantly disruptive.

4 68. CUSD and Becerra were aware or should have been aware that, despite  
5 pedagogical concerns, neither students nor teachers shed their constitutional rights  
6 to freedom of speech or expression at the schoolhouse gate.

7 69. The Drawing was B.B.’s protected First Amendment speech,  
8 symbolizing equality of rights regardless of skin color.

9 70. The Drawing did not cause any material disruption to education at  
10 CUSD or substantially interfere with the operations of the school or school  
11 activities, nor was it reasonably likely to do so.

12 71. The Drawing did not interfere with the rights of other students at  
13 CUSD.

14 72. The general rule that schools may not regulate speech that they or their  
15 employees disagree with or consider inappropriate (as opposed to truly threatening  
16 or substantially disruptive speech) has been established for decades. Therefore, the  
17 rights violated by CUSD and Becerra were clearly established.

18 73. As such, CUSD and Becerra violated B.B.’s First Amendment Rights  
19 by compelling her to apologize for her Drawing and punishing her by benching her  
20 and instructing her not to draw pictures for her friends at school or express her  
21 beliefs.

22 74. Becerra personally participated in depriving B.B. of her First  
23 Amendment Rights by compelling her to apologize for her Drawing and telling her  
24 that the Drawing was “inappropriate.” Becerra restrained B.B. from expressing her  
25 beliefs and compelled speech from her by forcing her to apologize for a Drawing  
26 that merely expressed her harmless beliefs.

27 75. Becerra’s actions deprived B.B. of her constitutional right to free  
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1 speech and right to education as B.B. was scolded for her speech, told to apologize  
2 for her speech, and then punished for her speech by benching her at recess.

3 76. Becerra's actions in violation of B.B.'s First Amendment rights were  
4 the direct result of a policy, custom, or practice of CUSD that encouraged its  
5 employees to promote the ethical standards implicit in CRT and reprimand students  
6 who failed to comport with those standards. CUSD adopted and maintained this  
7 policy, custom, or practice in deliberate indifference to B.B.'s rights.

8 77. CUSD and Becerra further deprived B.B. of her constitutional right to  
9 free speech and right to education, as they ordered the first investigation to be  
10 completed by Becerra, the person who was to be investigated.

11 78. CUSD retained the original copy of the Drawing and not once has  
12 made clear that the Drawing was appropriate, continuing to enforce the notion that  
13 B.B.'s speech should have been silenced.

14 79. As a further direct result of both Becerra's and CUSD's actions, B.B.  
15 suffered damages including but not limited to, the suppression of her First  
16 Amendment rights, emotional damages, harm to reputation, embarrassment,  
17 humiliation, severe stress and/or mental anguish, and all other damages directly  
18 and/or consequentially associated with the deprivation of one's civil rights,  
19 including attorneys' fees and costs associated with vindicating her civil rights.

20 80. Defendant CUSD had a policy, custom, or practice of teaching CRT  
21 and a policy, custom, or practice of failing to properly train its employees in  
22 handling situations of this kind, both of which were the direct cause of this violation.

23 81. Defendant CUSD's policy, custom, or practice was adopted and/or  
24 maintained with deliberate indifference to B.B.'s constitutional rights.

25 82. Defendants' actions were objectively unreasonable and caused B.B.  
26 emotional distress and humiliation.

27 83. As a direct, proximate, and foreseeable result of CUSD's conduct, B.B.  
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1 has incurred special and general damages, the precise amount of which will be  
2 proven at trial.

3 **SECOND CLAIM FOR RELIEF**  
4 **Violation of B.B.'s Fourteenth Amendment Right to Due Process**  
5 **(42 U.S.C. § 1983)**  
6 **(B.B. Against CUSD)**

7 84. Plaintiffs re-allege and incorporate by reference the allegations in  
8 paragraphs 10-44 and 59 as if fully set forth herein.

9 85. At all times relevant to the allegations in this Complaint, CUSD and  
10 Becerra acted under color of state law when implementing and enforcing CUSD  
11 policies.

12 86. By their actions and inactions described herein, CUSD and Becerra  
13 deprived B.B. of her due process rights under the Fourteenth Amendment.

14 87. CUSD's policies and procedures serve as the basis for discipline but are  
15 written so vaguely and broadly that B.B. and Boyle failed to receive adequate notice  
16 that their conduct, specifically B.B.'s drawing, may result in an offense.

17 88. CUSD's policies and procedures are unconstitutionally overbroad  
18 because they provide school officials unbridled discretion to discipline students over  
19 arbitrary matters. The language is ambiguous and the criteria for discipline are  
20 entirely subjective, such that countless constitutionally protected activities may fall  
21 within the permitted zone of discipline.

22 89. B.B.'s Drawing caused no interference whatsoever with the  
23 requirements of appropriate discipline in the operation of the school. In fact, the  
24 only offense it did cause – to the parents of B.B.'s classmates – was entirely off-  
25 campus, until they brought it on campus.

26 90. CUSD's policies and procedures allow students to be disciplined for  
27 on-campus speech that does not materially and substantially interfere with the  
28 requirements of appropriate discipline in the operation of the school, therefore such

1 policies and procedures are unconstitutionally overbroad because they infringe on a  
2 substantial amount of speech protected by the First Amendment.

3 91. CUSD’s policies and procedures are unconstitutionally overbroad  
4 because they do not allow a person of ordinary intelligence to determine what  
5 conduct the policies prohibit, and because the policies authorize arbitrary and  
6 overzealous enforcement.

7 92. CUSD's practice of permitting individuals implicated in complaints to  
8 self-investigate is not only a glaring conflict of interest but also represents a  
9 profound betrayal of due process principles, fundamentally undermining the  
10 integrity and fairness of the investigative process.

11 93. Despite CUSD's acknowledgment at the Level III Review that allowing  
12 Becerra to investigate himself was improper, CUSD’s failure to subsequently  
13 reassess or rectify the earlier decisions stemming from this flawed investigation  
14 exhibits disregard for both procedural fairness and the rights of the individuals  
15 involved. Such oversight calls into question the legitimacy of the entire investigative  
16 process and underscores the systemic issues within CUSD's complaint-handling  
17 procedures.

18 94. CUSD’s actions in this case, including the policies, procedures and  
19 practices referenced herein, have injured and continue to injure B.B. Unless the  
20 disciplinary action against B.B. is rescinded, withdrawn or otherwise expunged,  
21 these unlawful actions will become a permanent part of B.B.’s academic record.

22 95. As a direct, proximate, and foreseeable result of CUSD’s conduct, B.B.  
23 has incurred special and general damages, the precise amount of which will be  
24 proven at trial.

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**THIRD CLAIM FOR RELIEF**  
**Intentional Infliction of Emotional Distress**  
**(B.B. against Becerra and Victa)**

96. B.B. re-alleges and incorporates by reference the allegations in paragraphs 18-36 and 43-61 as if fully set forth herein.

97. Becerra intentionally or recklessly inflicted severe emotional distress on B.B. by compelling her to apologize to another student for the Drawing and benching her for two weeks from recess. Such conduct was outrageous and intended to cause B.B. emotional distress.

98. By demeaning her beliefs as inappropriate and forcing B.B. to apologize for them, Becerra acted with reckless disregard that B.B. would suffer extreme anxiety, shock, confusion, and severe emotional distress—all of which B.B. has experienced and continues to experience as a result of Becerra’s conduct. Becerra’s conduct was a substantial factor in causing B.B. severe emotional distress.

99. Victa further inflicted severe emotional distress on B.B. by aggressively following her around the playground as she harassed and tormented B.B. on or about August 23, 2022. Victa’s conduct on or about August 23, 2022, was outrageous and intended to cause B.B. emotional distress.

100. By standing by and watching Victa harass B.B., Becerra acted with reckless disregard for the high probability that B.B. would experience severe emotional distress.

101. The conduct of Victa and Becerra on or about August 23, 2022, was intentional, extreme, and outrageous. Such conduct caused B.B. to experience severe anxiety, worry, shock, dread, grief, and emotional trauma.

102. The severe emotional distress caused by Victa and Becerra on August 23, 2022, manifested in inconsolable tears, shortness of breath, subsequent anxiety attacks, physical harm, and emotional agony for B.B.



1 the parents because the school stands “in loco parentis” and the students’ care is  
2 “entrusted to” them. *Phyllis P. v. Superior Court*, 183 Cal. App. 3d 1193, 1196  
3 (1986). Parents send their children to CUSD with the understanding that CUSD has  
4 taken the proper and necessary steps to ensure the staff, under its employ, is  
5 competent to work with students and trained appropriately.

6 110. B.B. was harmed by the conduct of Becerra and Victa while enrolled as  
7 a student at Viejo. CUSD is responsible for this harm because Becerra and Victa  
8 were negligently hired, supervised, and/or trained by CUSD.

9 111. Having a continuous duty to supervise staff members in order to ensure  
10 they are competently performing their duties, CUSD knew or should have known  
11 that Becerra and Victa were or became unfit and/or incompetent to perform the  
12 work for which they were hired and were unfit and/or incompetent to carry out their  
13 duties, thereby posing a particular risk to students, including B.B.

14 112. Boyle made CUSD aware of the issues with Becerra and Victa over the  
15 course of many months – sounding the alarm for CUSD to act.

16 113. CUSD failed to act.

17 114. Despite having a duty, CUSD failed to exercise reasonable care in  
18 hiring, supervision, and retention of their employees. Further, the negligent hiring,  
19 supervision, and retention, were substantial factors in causing the B.B. and Boyle’s  
20 harm. Specifically, CUSD breached the duties owed to B.B. when it, *inter alia*:

- 21 a. Failed to supervise administrators, teachers, aides, paraeducators and/or  
22 staff in the performance of their duties;
- 23 b. Failed to ensure administrators, teachers, aides, paraeducators and/or  
24 staff had the requisite knowledge and/or training to competently carry  
25 out their duties, including how to properly handle complaints,  
26 investigate incidents, and interact with students; and,
- 27 c. Failed to ensure that administrators, teachers, aides, paraeducators  
28

1 and/or staff followed CUSD policies and administrative regulations  
2 designed to protect students' right to freedom of speech.

3 115. CUSD breached its duties owed to Boyle when they, *inter alia*:

4 a. Failed to supervise administrators, teachers, aides, paraeducators and/or  
5 staff in the performance of their duties;

6 b. Failed to take seriously the complaints lodged against Becerra and  
7 Victa by maintain them as staff without the requisite knowledge and/or  
8 training to competently carry out their duties, including how to properly  
9 handle complaints, investigate incidents, and interact with students;  
10 and,

11 c. Failed to ensure that Becerra followed CUSD policies and  
12 administrative regulations designed to protect students' right to  
13 freedom of speech.

14 116. Defendant CUSD had a policy, custom, or practice of failing to  
15 adequately train its employees regarding the above-referenced matters.

16 117. Defendant CUSD's policies, customs, or practices were the direct cause  
17 of the violation.

18 118. Defendant CUSD's policy, custom, or practice was adopted and/or  
19 maintained with deliberate indifference to B.B.'s constitutional rights.

20 119. Defendants' actions were objectively unreasonable and caused B.B.  
21 and Boyle severe emotional distress and humiliation.

22 120. As a direct, proximate, and foreseeable result of CUSD's conduct, B.B.  
23 has suffered severe humiliation, mental anguish, and emotional and physical  
24 distress, embarrassment, anger, loss of enjoyment of life, and have been injured in  
25 mind and body, the precise amount of which will be proven at trial.

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**FIFTH CLAIM FOR RELIEF**  
**Retaliatory Harassment (42 U.S.C. § 1983)**  
**(B.B. Against All Defendants)**

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121. B.B. re-alleges and incorporates by reference the allegations in paragraphs 10-61 and 89 as if fully set forth herein.

122. At all times relevant herein, CUSD, Becerra, and Victa acted under color of state law.

123. B.B.’s drawing, sharing of that drawing with her friend, and subsequent actions (prior to Becerra’s compelled apology) are constitutionally protected activities and do not materially and substantially disrupt the work and discipline of the school.

124. Being forced to apologize and “benched” would chill a person of ordinary firmness from continuing to engage in protected activity of the kind in which B.B. was engaged.

125. Victa’s harassment of B.B., including following her around and into the bathroom, would chill a person of ordinary firmness from continuing to engage in protected activity of the kind in which B.B. was engaged.

126. Becerra’s actions in compelling B.B. to apologize and benching her after she drew the Drawing containing the words “Black Lives Mater [sic.]” Any life” were motivated by a desire to retaliate against B.B. for exercising her First Amendment rights. Specifically, on information and belief, Becerra was upset that B.B.’s picture contained the phrase “Any life.”

127. However, Becerra’s retaliation did not end with the March 31 incident. After Boyle learned of the incident and demanded an apology from Becerra, CUSD officials engaged in a sham investigation in which they falsely attributed statements to Boyle that she did not make, called her a liar, failed to investigate the underlying claims of the complaint, gossiped about Boyle and B.B. to other CUSD employees,

1 and refused to take appropriate action to address the harm caused to B.B.

2 128. Despite recognizing that Becerra was improper in investigating his own  
3 conduct, CUSD, in its Level III Review, did nothing to correct its prior actions.

4 129. The August 23, 2022 incident involving Victa and Becerra harassing  
5 B.B. was an act of retaliation for speaking up against Becerra and utilizing CUSD's  
6 internal complaint process.

7 130. As a result of Becerra's retaliatory harassment and CUSD's subsequent  
8 actions, B.B. suffered severe emotional distress and the violation of her  
9 constitutional rights.

10 131. Defendants, through their employees, agents, and representatives,  
11 engaged in retaliatory harassment against B.B., in violation of 42 U.S.C. § 1983 and  
12 the First Amendment to the U.S. Constitution.

13 132. Defendant CUSD had a policy, custom, or practice of failing to  
14 properly investigate or adjudicate internal claims predicated on perceived  
15 ideological disagreements with students.

16 133. Defendant CUSD's policies, customs, or practices were the direct cause  
17 of the violation herein complained of.

18 134. Defendant CUSD's policy, custom, or practice was adopted and/or  
19 maintained with deliberate indifference to B.B.'s rights.

20 135. Defendants' conduct was motivated by a desire to retaliate against B.B.  
21 for her Drawing, a protected free speech activity, speaking out about the hostile  
22 environment at the school, and lodging complaints.

23 136. Defendants' retaliatory conduct was severe and pervasive and deprived  
24 B.B. of her constitutional rights.

25 137. As a result of Defendants' conduct, B.B. suffered severe emotional  
26 distress which manifested itself through physical harm.

27 138. As a direct, proximate, and foreseeable result of Defendants' conduct,  
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1 B.B. has incurred damages, the precise amount of which will be proven at trial.

2 **SIXTH CLAIM FOR RELIEF**  
3 **Deliberate Indifference**  
4 **(B.B. Against Becerra and CUSD)**

5 139. Plaintiffs re-allege and incorporate by reference the allegations in  
6 paragraphs 18, 19-59 as if fully set forth herein.

7 140. Becerra and CUSD were deliberately indifferent to the harassment and  
8 retaliation that B.B. experienced.

9 141. At all times relevant herein, Becerra and CUSD acted under color of  
10 state law.

11 142. Becerra had an obligation to adequately investigate and respond to  
12 B.B.'s complaints of harassment and retaliation. Becerra and CUSD showed  
13 deliberate indifference to the harassment and retaliation to which B.B. was subjected  
14 by failing to properly protect her as a student at Viejo. The lack of action to promote  
15 a safe and appropriate environment constitutes deliberate indifference.

16 143. Becerra and CUSD knew or should have known of the retaliation but  
17 failed to take prompt and effective remedial measures in response to the complaints  
18 brought.

19 144. The fact that Becerra's decision was upheld in two stages of review,  
20 despite his obvious conflict of interest, and the fact that no genuine investigation  
21 was ever undertaken demonstrate the policy, custom, or practice CUSD had of  
22 failing to properly investigate and adjudicate internal complaints, manifesting  
23 deliberate indifference to the consequences both of the underlying conduct  
24 complained of and the outcomes of the internal complaint process.

25 145. Becerra's deliberate indifference and CUSD's policy, custom, or  
26 practice were direct and proximate causes of the harm suffered by B.B.

27 146. CUSD's policy, custom, or practice was adopted and/or maintained  
28

1 with deliberate indifference to B.B.’s rights and wellbeing.

2 147. As a result of the conduct by Becerra and CUSD, B.B. suffered and  
3 continues to suffer severe and lasting harm, including emotional distress, anxiety,  
4 shock, trauma, fear, and loss of educational opportunities.

5 148. As a direct, proximate, and foreseeable result of Becerra and CUSD’s  
6 conduct, B.B. has incurred damages, the precise amount of which will be proven at  
7 trial.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for relief as follows:

- 10 1. Compensatory damages in an amount to be determined at trial;
- 11 2. Punitive damages against CUSD, Defendant Becerra and Cleo Victa;
- 12 3. Attorneys’ fees and costs;
- 13 4. Prejudgment interest;
- 14 5. Any other relief that the Court deems just and proper.

15  
16 Respectfully submitted,

17 LEX REX INSTITUTE

18  
19 Dated: September 8, 2023

20 By           /s/ Alexander H. Haberbush  
21 ALEXANDER H. HABERBUSH,  
22 ESQ., *Attorneys for Plaintiffs*



# CAPISTRANO UNIFIED SCHOOL DISTRICT

33122 VALLE ROAD, SAN JUAN CAPISTRANO CA 92675  
TELEPHONE: (949) 234-9200/FAX: 496-7681 [www.cqpousd.org](http://www.cqpousd.org)

March 15, 2022

VIA EMAIL AND U.S. MAIL

CONFIDENTIAL

Mrs. Chelsea Boyle

Re: Your Level 1 Complaint Dated: 3/8/2022

Case #: [Click here to enter text](#)

Dear Mrs. Boyle,:

This letter is in response to your Level 1 complaint filed on 3/8/2022 at 3:53pm..

In your Level 1 complaint you reported the following:

**"I have JUST become aware that last year my first grade daughter drew a picture of children holding hands together (all races and colors) and titled the picture "All Lives Matter."**

**"My daughter was brought in to your office and made to APOLOGIZE to children in her class for her picture and she was LECTURED AND PUNISHED by you because of this picture and EDUCATED about "Black Lives Matter."**

**"I am so so so BEYOND upset that this happened, I am JUST finding out about this now from ANOTHER PARENT who thought I already KNEW. Please find BELOW an email sent to YOU that YOU replied to on September 6th, 2020."**

**"Why was I NEVER called? Why was I not even INFORMED that this happened to my daughter?"**

After conducting a thorough investigation of this matter, the following are the District's findings:  
From my recollection, the drawing you are referring to was created by your daughter. This was about a year ago when she was in first grade. I am confident that she was not punished for her drawing nor would she be made to apologize for it. I do not teach nor have I ever taught about Black Lives Matter to anyone. I can say that she is a kind student and did not mean anything by it aside from wanting to give a friend a picture.

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RANCHO MISSION VIEJO • RANCHO SANTA MARGARITA • SAN CLEMENTE • SAN JUAN CAPISTRANO

From my recollection, I communicated to you regarding your daughter's drawing and it was just to make you aware of it. I vaguely recall our conversation and the discussion was lighthearted knowing your daughter was coming from a good place in her heart.

I am confident you were notified in some manner regarding your daughter's picture. You provide specific details in your email regarding the picture. Due to the innocent nature of this event, no documentation of communication was kept.

As the result of our investigation, the following action has been taken by the District in an effort to resolve this complaint.

An effort was made for Mr. and Mrs. Boyle to meet with the Principal, Assistant Principal, and School Counselor to discuss any misunderstandings or to clarify any misconceptions.

Under District Board Policy 1312.1, you may file a Level 2 complaint, which will be addressed to Pati Romo, Executive Director, College and Career Readiness, if you choose to pursue further review of the complaint. You have 10 working days to appeal the Level 1 decision to Level 2. The complaint should be filed on the CUSD website under Complaints located at: <https://webapps.capousd.org/Complaint/>

Sincerely,

*Mr. Becerra*

Principal, Viejo Elementary

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# CAPISTRANO UNIFIED SCHOOL DISTRICT

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**SUPERINTENDENT**  
KIRSTEN M. VITAL

DATE: March 24, 2022  
TO: Chelsea Boyle  
FROM: Patricia Romo  
Executive Director  
SUBJECT: Level 2 Complaint Response- Complaint # 3717

Mrs. Boyle,

With this letter, I am responding to your Level 2 complaint regarding your complaint regarding Mr. Jesus Becerra’s handling of a March 2021 incident involving your daughter in which you disagree. **Capistrano Unified School District takes complaints very seriously.** The following is a summary of the steps taken thus far:

After conducting a thorough investigation of this matter, the Principal provided a response letter dated March 8, 2022. In summary, the Level 1 complaint and response was as follows:

In your Level 1 complaint you reported the following:

“I have JUST become aware that last year my first grade daughter drew a picture of children holding hands together (all races and colors) and titled the picture “All Lives Matter.”

“My daughter was brought in to your office and made to APOLOGIZE to children in her class for her picture and she was LECTURED AND PUNISHED by you because of this picture and EDUCATED about “Black Lives Matter.”

“I am so so so BEYOND upset that this happened, I am JUST finding out about this now from ANOTHER PARENT who thought I already KNEW. Please find BELOW an email sent to YOU that YOU replied to on September 6th, 2020.”

“Why was I NEVER called? Why was I not even INFORMED that this happened to my daughter?”

The Principal’s response was:

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“From my recollection, the drawing you are referring to was created by your daughter. This was about a year ago when she was in first grade. I am confident that she was not punished for her drawing nor would she be made to apologize for it. I do not teach nor have I ever taught about Black Lives Matter to anyone. I can say that she is a kind student and did not mean anything by it aside from wanting to give a friend a picture.”

In your Level 2 complaint you reported the following:

“Principal has not informed me of racist activities. Principal has punished my daughter, PARENTED my daughter and made her to apologize for repeating what she LEARNED IN SCHOOL.

Principal LIED PLEASE SEE MANY MANY EMAIL COMMUNICATIONS [Requested Resolution:] I HAD asked for an apology but couldn't even receive that. The principal decided to completely lie instead.”

After speaking with you and conducting a thorough investigation of this matter, the following are the level 2 complaint process District's findings:

- The District spoke to the parent of the other child (Parent B) involved who remembers the incident very clearly and corroborated what the Principal has stated. She stated that your child drew a picture with children of different colors and the title “Black Lives Matter, All Lives.” Staff has reviewed a copy of the picture. Parent B remembers that the Principal discussed the picture that was given to her daughter, by your daughter, and that they both decided that the picture was not given to her daughter with ill intent. In fact, Parent B felt that your daughter meant to make her daughter feel more comfortable and included. Since they both felt that the picture was innocent, no action was taken and both Parent B and her husband were supportive of Principal Becerra and his handling of the incident. They thought nothing of it and put it out of their minds until they started receiving text messages from you.
- Staff is in possession of several text message exchanges between you and Parent B stating that the District was teaching children inappropriate content and you included a picture of a video presentation on a computer screen in which there is a sign in the background that had several statements such as “This is a safe place” and “Black Lives Matter.” There was also one banner that stated “Social Justice.” Upon further investigation, staff could find no evidence that any of those subjects were taught in extended learning during that time frame, though the students may have watched a video where the presenter had those signs in the background, the video was not about those subjects. Those lessons have been removed since in-person instruction resumed and online instruction was removed.
- Mrs. and Mr. Parent B asked you to stop texting them. Parent B stated that they did not believe that anything inappropriate was being taught at their daughter's school and that their daughter felt safe and included in her classroom and on the school campus. Parent B further stated that her only concern has been that you have made comments related to

the earlier incident in which you relayed to her that you felt wasn't handled correctly, and have tried to discuss with her on several occasions when she is not interested in revisiting the incident related to the drawing.

- Staff is in possession of several text message exchanges between you and Mr. and Mrs. Parent B regarding their daughter's appearance in which you commented on her hair being messy. Parent B explained that she had hurt her hand and was unable to style her daughter's hair that morning and asked you not to comment about her daughter's appearance. You stated that you meant it as a compliment and that you liked her daughter's hair looking wild and crazy, but beautiful. Mr. Parent B then took the phone and texted you back, asking you to stop texting them and stop making comments on their daughter's appearance. You continued to text them, defending your comments, but also stating, "I feel sorry for you as a man, taking the phone from your wife and reading her text messages" along with other derogatory comments. Parents B asked you several times to stop texting them. Parent B then met with Mr. Becerra to ensure that her daughter is safe in the classroom from any actions or comments you might say in her presence, since you are in the classroom and on campus during your work on the yearbook. Mr. Becerra agreed to maintain a safe environment for the students and any volunteers on campus.
- The District has corroborated the Principal's statements that the original incident did not warrant any disciplinary action with your child, and none was taken. There is no evidence that your daughter was made to apologize to the other child, and the parents of that child, have corroborated that.

After conducting an investigation of the Level 2 complaint and response, staff has concluded that the Principal took the appropriate action and provided you with reasonable explanations regarding the incident and his response, and any related incidents since that time. There is no evidence that any action was taken by the Principal, and although the words "Black Lives Matter" were shown on a sign behind the presenter in the video, the concept was never taught in any lessons provided to your daughter.

Capistrano Unified School Districts strives to ensure that every student has a healthy, happy, and safe environment to learn. The hope of the District staff, the Principal, and the parents who were interviewed is that we continue to move forward to focus on the safety and success of your daughter and all students at Viejo Elementary School.

If you are not satisfied with these findings, under District Board Policy 1312.1, you may file a Level 3 complaint if you choose to pursue further review of the complaint. In order to file a Level 3 complaint, please visit the Capistrano Unified School District Complaint Information and Resources website and fill out the online complaint form for a Level 3 complaint appeal. You will be asked your reason for appealing the Level 2 response as well as your recommended resolution. You have 10 business days to appeal the Level 2 decision to Level 3.

Please contact me if you require further information.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Romo". The ink is dark and the signature is fluid and legible.

Patricia Romo  
Executive Director, College and Career Readiness  
(949) 234-9464



CAPISTRANO UNIFIED SCHOOL DISTRICT

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July 21, 2022

VIA EMAIL AND U.S. MAIL

CONFIDENTIAL

July 21, 2022

Chelsea Boyle  
25271 Pike Road  
Laguna Hills, CA 92653

Re: Your Complaint Dated: March 30, 2022

Case #: 3717

Dear Ms. Boyle,

This letter is the District's response to your Level 3 complaint received on March 30, 2022. It informs you that your Complaint has been escalated to a Level 4 Appeal to the Board of Education, for their consideration on August 17, 2022. Below is a summary of the complaint process so far:

Level One

You filed a Level 1 complaint on March 8, 2022 alleging that Viejo Elementary School Principal, Jesus Becerra, lectured and punished your daughter because of a picture she drew. You inquired as to why you were not notified or informed about what had occurred. On March 15, 2022, Principal Becerra provided you with a response to your complaint clarifying that in response to your daughter's drawing, which happened during the 2020-2021 school year, your daughter had not been punished. There was a conversation between your daughter, the student she gave the drawing to, and staff regarding the drawing. A meeting was offered between you, the Principal, the Assistant Principal, and the School Counselor to discuss any ongoing issues.

Level Two

You appealed the complaint to Level 2. In your Level 2 complaint you reported the following: *The principal did not inform you of racist activities. The principal has punished your daughter, parented your daughter and made her apologize for repeating what she learned in school. The principal lied.* You shared that you had many email communications.

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As part of your complaint, your requested resolution stated, *"I had asked for an apology but couldn't even receive that. The principal decided to completely lie instead."*

On or about March 24, 2022, you received Level 2 Findings from Pati Romo. Ms. Romo conducted additional investigation, including speaking with the parent of the other student involved regarding the circumstances surrounding the incident. She determined that Principal Becerra took appropriate action and provided you with reasonable explanations regarding the incident and his response. He clarified that while the words "Black Lives Matter" were shown on a sign behind a presenter during a virtual lesson, the concept was never taught in any lessons provided to your daughter.

### Level Three

You disagree with Ms. Romo's findings. In response to Mr. Romo's findings, you stated: *"This level 2 response is complete and utter nonsense."* You went on to add, *"At that time, I would like to see said proof of texts provided by the Clay family that you quoted in your response. No derogatory remarks were made by me & the quotes you provided in your response were never texted, emailed etc. NEVER to anyone. I have all the originals and nothing I wrote could be conveyed as such"*

As part of the Level 3 resolution, you met with Dr. Cary Johnson and Heidi Crowley on Monday, April 11, 2022 to discuss your concerns. At that meeting you indicated that there was an employee witness that could corroborate your claims, but declined to provide the name of the employee. Additionally, you were asked if you were willing to have your daughter write a statement about the incident, to which you replied that you would think about it.

On April 15, 2022 Dr. Johnson met with Mr. Becerra as well as reviewed the Aeries Student Information System for information related to the incident. No information could be found to substantiate the claim that your daughter had been disciplined for the incident.

Regardless, staff attempted to set up a meeting to address your concerns and develop a plan for your student to feel welcomed at school. On April 18, 2022, Dr. Johnson sent you the following email:

*Mrs. Boyle,*

*I hope you had a good weekend. Met with Mr. Becerra on Friday and I am reaching out to see if you and your husband would be willing to meet with myself, Mr. Becerra, and Ms. Crowley at Viejo to resolve your concerns. We can coordinate on the dates and times. Thanks.*

You declined to meet with Mr. Becerra and Dr. Johnson.

On April 27, 2022, you emailed Trustees and staff requesting a phone call to resolve the situation. Dr. Johnson called you the same day and you made specific requests. After analyzing your requests, the following responses were provided:

- ***Request: A change in the complaint protocols: complaints about a principal to be handled by a supervisor***

**Response:** This is excellent feedback, and we are adjusting the process so that Level 1 complaints about a principal go immediately to the principal's supervisor or other administrators to support with resolution.

- ***Request: A formal written apology from Mr. Becerra for his actions and how he handled himself***

**Response:** To this point, no evidence substantiates that Mr. Becerra has engaged in any activity that would warrant an apology, however one of the reasons I had asked to meet with you and Mr. Becerra was to identify how the school and the principal could bridge gaps and make you feel more comfortable interacting with the school.

- ***Request: An apology from Pati Romo***

**Response:** Ms. Romo followed the procedures outlined in the CUSD complaint process while investigating your complaint and was objective in her reporting of the findings.

- ***Request: An apology from Pati's supervisor***

**Response:** As Pati Romo's supervisor, I am more than willing to apologize for your experience through the complaint process.

- ***Request: Immediate settlement on a prior denied claim filed with the District***

**Response:** Unfortunately, it is not possible to expedite this process, as it must follow specific legal steps. I can connect you with someone that can walk you through the process.

- ***Request: Switch Mr. Becerra to another school***

**Response:** Principal assignments are strictly the purview of the District and multiple factors are taken into consideration when placing or reassigning administrators.

- ***Request: District staff to review reports of bullying at Viejo Elementary School***

**Response:** This is a request the District can fulfill by reviewing bullying reports for Viejo Elementary School.

After conducting a thorough investigation of this matter, the following are the District's findings at Level 3:

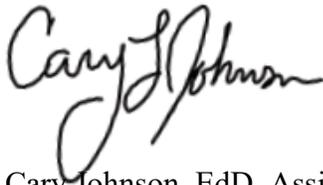
The weight of the evidence does not substantiate your allegation that your daughter was punished or disciplined for her "All Lives Matter" picture.

Regardless, in response to the investigation and based on your subsequent requests, the following actions have been taken by the District in an effort to resolve this complaint:

- We have adjusted the process so that Level 1 complaints about a principal go immediately to the principal's supervisor or other administrator to support with resolution.
- District staff will review bullying reports for Viejo Elementary School

You have shared that you disagree with this outcome. Please let me know by Wednesday, August 3, 2022 if this is the case and, based on District Board Policy 1312.1, your complaint will be escalated to Level 4 and your appeal will be brought forward for consideration by the Board in Closed Session at the August 17, 2022, Board Meeting. At that time, Trustees will determine if the Level 3 findings will be upheld or if you will be invited to present directly to Trustees at the subsequent Board meeting, September 21, 2022.

Sincerely,

A handwritten signature in black ink that reads "Cary Johnson". The signature is written in a cursive style with a large, looping initial "C".

Cary Johnson, EdD, Assistant Superintendent of Curriculum and Instruction

**CERTIFICATE OF SERVICE**

I hereby certify that on **September 8, 2023**, I electronically filed the foregoing document with the Clerk of the Court for the United States District Court Central District of California by using the CM/ECF system.

I further certify that parties of record in this action who either are registered CM/ECF users, or who have registered for electronic notice, or who have consented in writing to electronic service, will be served through the CM/ECF system.

I further certify that some of the parties of record to this action have not consented to electronic service. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days, to the following parties:

**September 8, 2023**    **Alexander S. Bostic**  
*Date*                      *Printed Name*

/s/ Alexander S. Bostic  
*Signature*